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# REVISED STATUTES

OF

# ONTARIO, 1980

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1979

**VOL. 5**

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER





# REVISED STATUTES OF ONTARIO, 1980

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## CHAPTER 298

### Motor Vehicle Accident Claims Act

**1.** In this Act,

Interpre-  
tation

- (a) “Director” means the Director of the Motor Vehicle Accident Claims Fund appointed for the purposes of this Act;
- (b) “driver’s licence” means a driver’s licence issued under the *Highway Traffic Act*; R.S.O. 1980,  
c. 198
- (c) “Fund” means the Motor Vehicle Accident Claims Fund;
- (d) “insured motor vehicle” means a motor vehicle,
  - (i) that is insured under a motor vehicle liability policy in accordance with the *Insurance Act*, R.S.O. 1980,  
c. 218  
or
  - (ii) in respect of which there is on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability prescribed under section 219 of the *Insurance Act*, or
  - (iii) in respect of which the owner is exempt from the payment of registration fees under the regulations made under the *Highway Traffic Act*, or
  - (iv) that is registered under the *Highway Traffic Act* in the name of a municipality;
- (e) “licence” means a driver’s licence issued under the *Highway Traffic Act*;
- (f) “Minister” means the Minister of Consumer and Commercial Relations;
- (g) “Ministry” means the Ministry of Consumer and Commercial Relations;

R.S.O. 1980,  
c. 198

(h) "permit" means an owner's permit issued under the *Highway Traffic Act*;

(i) "Registrar" means the Registrar of Motor Vehicles;

(j) "Superintendent" means the Superintendent of Insurance;

(k) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle. R.S.O. 1970, c. 281, s. 1; 1972, c. 1, s. 46 (2); 1973, c. 13, s. 1, *revised*.

Fund  
established

2.—(1) There shall be a fund to be known as the Motor Vehicle Accident Claims Fund into which shall be paid the fees paid under this section. R.S.O. 1970, c. 281, s. 2 (1).

Fee on  
issue or  
renewal of  
licence

(2) Upon the issue or renewal of a driver's licence, there shall be paid to the Fund by the person to whom the licence or renewal is issued such fee as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 281, s. 2 (4), *revised*.

Fund may be  
subsidized

(3) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment out of the Consolidated Revenue Fund of such an amount as may be considered necessary or advisable to subsidize the Fund.

Interest  
credited  
to Fund

(4) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Administra-  
tion  
expenses

(5) The Lieutenant Governor in Council in each year shall authorize the payment out of the Fund to the Consolidated Revenue Fund of an amount for the payment of expenses in connection with the administration of the Fund. R.S.O. 1970, c. 281, s. 2 (6-8).

Superinten-  
dent deemed  
agent for  
service re  
uninsured  
vehicles

3. The Superintendent shall be deemed to be an agent of the owner and of the operator of every uninsured motor vehicle for service of notice or process in an action in Ontario arising out of the use or operation in Ontario of the uninsured motor vehicle, and, where such an action is commenced,

(a) a notice or process shall be served on the Superintendent by leaving a copy thereof with or at the office of the Superintendent; and

- (b) a copy of the notice or process shall be sent forthwith by the Director by registered mail to the defendant at his last address as recorded with the Ministry of Transportation and Communications. 1973, c. 13, s. 3.

4.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of such uninsured motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 6 (1), may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage, provided that only that amount by which the judgment exceeds \$100 is payable out of the Fund. R.S.O. 1970, c. 281, s. 5 (1); 1979, c. 87, s. 17 (3).

Application for payment out of Fund where person has cause of action

(2) Upon receipt of an application under subsection (1), the Minister shall, by registered mail, forward a notice of the application for payment out of the Fund to the owner and the driver of the uninsured motor vehicle against whom liability for the damages occasioned by the operation of the uninsured motor vehicle is alleged, to their last addresses as recorded with the Ministry of Transportation and Communication. R.S.O. 1970, c. 281, s. 5 (2); 1973, c. 13, s. 4 (1).

Notice to owner and driver

(3) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund, subject to section 21, of an amount that he considers proper in all the circumstances if,

Payment out of Fund authorized

- (a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid out of the Fund; and
- (b) subject to clause (c), the owner and driver of the uninsured motor vehicle, against whom liability for the damages occasioned by the operation of the motor vehicle is alleged, execute a consent to the payment of the sum for damages out of the Fund and also execute under seal an undertaking to repay to the Fund the amount to be paid from the Fund; or
- (c) the person to whom a notice is sent in accordance with subsection (2) does not reply within thirty days of the date upon which the notice was sent either,



(i) by mail, or

(ii) by attending in person at the place named in the notice,

and disputes his liability to the person making application under subsection (1).

Rights of insured to which insurer subrogated  
R.S.O. 1980, c. 218

(4) The release executed under clause (3) (a) does not affect the rights of recovery of an insured against any person to which an insurer becomes subrogated under section 213 of the *Insurance Act*.

Minister subrogated to rights of applicant

(5) Where an amount is paid out of the Fund under subsection (3), the Minister is subrogated to the rights of the person to whom such amount is paid and the Minister may maintain an action in his name or in the name of such person against any other person or persons responsible for the use or operation of the uninsured motor vehicle. R.S.O. 1970, c. 281, s. 5 (3-5).

Suspension of licence

(6) Where payment is made under subsection (3), the driver's licence of the person to whom notice was forwarded under subsection (2) shall be forthwith suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until such person has,

(a) repaid in full to the Fund the amount paid out; or

(b) commenced instalment repayments in accordance with an undertaking referred to in clause (3) (b) or the regulations made under section 9. 1973, c. 13, s. 4 (2).

Suspension on default of payment

(7) Where a person who has commenced repayment of the amount paid out of the Fund on the undertaking referred to in clause (3) (b) or by the payment of instalments in accordance with the regulations under section 9 is in default in any payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence of such person. R.S.O. 1970, c. 281, s. 5 (7); 1973, c. 13, s. 4 (3).

Application for payment of judgment

5.—(1) Subject to section 6, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Ontario by a motor vehicle owned or operated by the judgment debtor within Ontario, upon the

determination of all proceedings, including appeals, he may make application, in the form prescribed by the Lieutenant Governor in Council, for and the Minister shall pay the amount of the judgment or of the unsatisfied portion thereof out of the Fund, provided that, in respect of a judgment for loss of or damage to property, only that amount by which the judgment exceeds \$100 is payable out of the Fund. R.S.O. 1970, c. 281, s. 6 (1); 1979, c. 87, s. 17 (4).

(2) Where an application is made to the Minister under subsection (1), the Minister at any time within thirty days of the receipt of the application or within such further time as may be allowed upon application to a judge of the Supreme Court give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the Minister gives the notice, the applicant may apply by way of originating notice to a judge of the Supreme Court for a finding or determination in respect of any matter in connection with the application for payment out of the Fund.

Where  
Minister  
objects to  
payment

(3) The Minister shall not pay out of the Fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal. R.S.O. 1970, c. 281, s. 6 (2, 3).

Action  
against all  
persons  
reasonably  
liable to  
be sued

**6.—**(1) Section 5 does not apply in the case of a judgment that has been signed in an action in which,

Application  
of s. 5

- (a) the defendant did not enter an appearance; or
- (b) the defendant did not file a statement of defence; or
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) the defendant did not appear in person at an examination for discovery; or
- (e) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he may consider advisable under subsection (2).

Rights of  
Minister

(2) Where the Minister receives notice under subsection (1), he may, if he considers it advisable, enter an appearance within thirty days, file a defence, make payment into court, appear by counsel at the trial or take such other action as he may consider appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct his defence, and may, where he considers it advisable to do so, consent to judgment in such amount as he may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant.

Reopening  
pleadings

(3) Where pleadings have been noted closed, the Minister may, upon giving notice to the registrar, local registrar or clerk of the court that he intends to defend the action on behalf and in the name of the defendant, reopen the pleadings upon praecipe.

Minor  
defendant

(4) Where the defendant is a minor, the Minister may exercise the rights and take the action referred to in subsection (2) in the name of the minor without the appointment of a guardian *ad litem* and may assert a counterclaim on behalf of the minor without a next friend.

Deceased  
defendant

(5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise the rights and take the action referred to in subsection (2) in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased. R.S.O. 1970, c. 281, s. 7.

Assignment  
of judgment  
to Minister

7.—(1) The Minister shall not pay out of the Fund any sum under section 5 until the judgment creditor assigns the judgment to him. R.S.O. 1970, c. 281, s. 8 (1).

Lodging  
assignment  
with court

(2) Upon lodging a copy of the assignment of judgment, certified by the Director to be a true copy, with the registrar, local registrar or clerk, as the case may be, of the court in which the judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor. R.S.O. 1970, c. 281, s. 8 (2); 1973, c. 13, s. 5.

Lodging  
with  
sheriff

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment, certified as prescribed in subsection (2), is lodged with the sheriff having the writ of execution, the provisions of subsection (2) apply with necessary modifications. R.S.O. 1970, c. 281, s. 8 (3).



**8.** Where the Minister pays out of the Fund any amount in satisfaction of a judgment, the driver's licence of the judgment debtor on whose behalf such payment is made shall forthwith be suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until the judgment debtor has,

Suspension  
of licence

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with the regulations made under section 9. 1973, c. 13, s. 6.

**9.—(1)** The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments.

Restoration  
of licence  
on instal-  
ment  
payments

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits. R.S.O. 1970, c. 281, s. 10 (1, 2).

Instalment  
payments  
and condi-  
tions of  
restoration  
of licence

(3) When a person is in default of any such payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence and owner's permit or permits of such person. R.S.O. 1970, c. 281, s. 10 (3); 1973, c. 13, s. 7.

Further  
suspension

**10.** Where the death of or personal injury to any person is occasioned in Ontario by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may bring an action against the Superintendent, either alone or as a co-defendant with others alleged to be responsible for the death or personal injury. R.S.O. 1970, c. 281, s. 11; 1973, c. 13, s. 8.

Where  
identity  
of vehicle  
cannot be  
established

**11.** Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a motor vehicle and it is alleged that the death or injury was caused or contributed to by another motor vehicle, the identity of which and the owner and driver thereof cannot be established, the Superintendent may be added as a defendant on the application of any party and shall be added as a defendant on his own application. R.S.O. 1970, c. 281, s. 12; 1973, c. 13, s. 9.

Idem

Non-jury  
action

**12.** When the Superintendent is a party to an action, the action shall be tried by a judge without a jury. R.S.O. 1970, c. 281, s. 13; 1973, c. 13, s. 10.

Where  
owner  
known but  
identity  
of driver  
cannot be  
established

**13.** When the death of or personal injury to any person is occasioned in Ontario by a motor vehicle at a time when the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur and the identity of the person in possession of the motor vehicle cannot be established, any person who would have a cause of action against the person in possession of the motor vehicle in respect of such death or injury may bring an action against the Superintendent. R.S.O. 1970, c. 281, s. 14; 1973, c. 13, s. 11.

General  
denial

**14.** In an action against the Superintendent, the Superintendent may deny generally the allegations in respect of the unidentified motor vehicle and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he relies. R.S.O. 1970, c. 281, s. 15; 1973, c. 13, s. 12.

All reason-  
able efforts  
to ascertain  
identity  
condition to  
granting  
judgment

**15.** In an action against the Superintendent, a judgment against the Superintendent shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the Superintendent, to ascertain the identity of the motor vehicle and of the owner and driver thereof, and that,

- (a) in the case of actions under section 10, the identity of the motor vehicle and of the owner and driver thereof cannot be established; or
- (b) in the case of actions under section 13, the identity of the driver of the motor vehicle that caused the death or injury cannot be established. R.S.O. 1970, c. 281, s. 16; 1973, c. 13, s. 13.

Time limit  
for actions  
against  
Super-  
intendent  
R.S.O. 1980,  
c. 198

**16.** All actions against the Superintendent may be commenced only within the times limited for actions under section 180 of the *Highway Traffic Act*. R.S.O. 1970, c. 281, s. 17; 1973, c. 13, s. 14.

Payment of  
judgment  
against  
Super-  
intendent

**17.** Where judgment is obtained against the Superintendent, upon the determination of all proceedings, including appeals, the Minister, subject to subsection 21 (6), shall pay out of the Fund to the plaintiff in action the amount of the judgment. R.S.O. 1970, c. 281, s. 18; 1973, c. 13, s. 15.

**18.**—(1) Where judgment has been obtained against the Superintendent, the Superintendent may at any time thereafter, by originating notice, apply, Order of judge as to owner or driver

- (a) where judgment has been obtained in the Supreme Court, to a judge or local judge thereof;
- (b) where judgment has been obtained in a county or district court, to a judge thereof; and
- (c) where judgment has been obtained in a small claims court of a county or district, to a judge of the county or district court of the county or district,

for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury in respect of which the judgment was obtained. R.S.O. 1970, c. 281, s. 19 (1); 1973, c. 13, s. 16 (1).

(2) Upon the making of an order declaring that any person was the owner or driver of a motor vehicle, Owner or driver defendant in action

- (a) such person shall for the purpose of this Act be deemed to be the defendant in the action in which judgment was given against the Superintendent, and the judgment against the Superintendent shall be deemed to be a judgment against such person; and
- (b) the Minister shall be deemed to have a judgment against such person for the amount of all moneys paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any moneys that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident. R.S.O. 1970, c. 281, s. 19 (2); 1973, c. 13, s. 16 (2).

**19.** In an action brought against the Superintendent, the Superintendent is not personally liable to satisfy a judgment obtained in the action. R.S.O. 1970, c. 281, s. 20; 1973, c. 13, s. 17. Superintendent not personally liable

**20.** No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Superintendent of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out Payments in relation to amounts payable by insurer, etc., prohibited R.S.O. 1980, c. 198



R.S.O. 1980,  
c. 198

of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance. R.S.O. 1970, c. 281, s. 21; 1973, c. 13, s. 18.

Limits  
payable  
from Fund

**21.**—(1) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000, but in any event the Minister shall not pay out of the Fund more than a total of \$10,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(2) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident. 1980, c. 56, s. 1 (1).

Idem

(3) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury

or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident. 1976, c. 76, s. 1 (1); 1980, c. 56, s. 1 (2).

(4) In respect of applications under section 4 or 5 for pay- <sup>Idem</sup> ment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident.

(5) In respect of applications under section 4 or 5 for pay- <sup>Idem</sup> ment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, the Minister shall not pay out of the Fund,

- (a) more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$2,000, exclusive of costs, for loss of or damage to property resulting from any one accident.

(6) In respect of applications under section 4 or 5 for pay- <sup>Idem</sup> ment of damages arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, the Minister shall not pay out of the Fund,

- (a) more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$1,000, exclusive of costs, for loss of or damage to property resulting from any one accident.  
R.S.O. 1970, c. 281, s. 22 (2-4).

Idem

(7) Subject to subsection (8), the Minister shall not pay out of the Fund in respect of judgments against the Superintendent for damages,

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, more than \$200,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of January, 1981, more than \$100,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (c) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (d) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or
- (e) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, more than \$10,000, exclusive of costs, on account of injury to or



the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; or

- (f) arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident. R.S.O. 1970, c. 281, s. 22 (5); 1973, c. 13, s. 19; 1976, c. 76, s. 1 (2); 1980, c. 56, s. 1 (3, 4).

(8) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. Partial discharge of judgment debt

(9) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. R.S.O. 1970, c. 281, s. 22 (6, 7). Interest

**22.**—(1) In this section, “residence” shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed. Interpretation

(2) The Minister shall not pay out of the Fund any amount in favour of a person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of Ontario, provided that no payment shall include an amount that would not be payable by the law of the jurisdiction in which such person resides. R.S.O. 1970, c. 281, s. 23. Payments to non-residents

**23.**—(1) The Minister shall pay out of the Fund costs of an action but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action. Costs

(2) Where, by reason of an action having been maintained in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the costs of the action as Idem

awarded in the judgment as between parties to the action that bears the same proportion to the whole of such costs as the total amount of the judgment, less the amount of the insurer's interest in the judgment, bears to the total amount of the judgment.

Solicitor's  
fee

(3) Where a solicitor has completed the application referred to in subsection 5 (1) and the assignment of judgment and has issued execution and filed it with the sheriff, he is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements.

Direction  
of Minister  
for payment  
of solicitor's  
fee

(4) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection (3), he may waive such requirements, and in such case the solicitor is entitled to the fee under subsection (3). R.S.O. 1970, c. 281, s. 24.

Bill of  
costs to be  
taxed and  
filed

**24.**—(1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Minister.

Fees  
limited to  
taxed costs

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection (1), other than the amounts as taxed on a solicitor and client basis in the bill or bills of costs.

No order  
required

(3) No order is required to tax such a bill. R.S.O. 1970, c. 281, s. 25.

Practice  
and  
procedure

**25.** The practice and procedure of the Supreme Court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this Act. R.S.O. 1970, c. 281, s. 26.

## CHAPTER 299

## Motor Vehicle Dealers Act

## 1. In this Act,

Interpre-  
tation

- (a) “business premises” does not include a dwelling;
- (b) “Director” means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;
- (c) “dwelling” means any premises or any part thereof occupied as living accommodation;
- (d) “Minister” means the Minister of Consumer and Commercial Relations;
- (e) “motor vehicle” means an automobile, truck or other vehicle propelled or driven otherwise than by muscular power, including a motorcycle, but not including a motorized snow vehicle or a farm tractor or other self-propelled machinery primarily intended for farming or construction purposes;
- (f) “motor vehicle dealer” means a person who carries on the business of buying or selling motor vehicles, whether for his own account or the account of any other person, or who holds himself out as carrying on the business of buying or selling motor vehicles;
- (g) “prescribed” means prescribed by this Act or the regulations;
- (h) “registered” means registered under this Act;
- (i) “Registrar” means the Registrar of Motor Vehicle Dealers and Salesmen;
- (j) “regulations” means the regulations made under this Act;
- (k) “salesman” means a person employed, appointed or authorized by a dealer to buy or sell motor vehicles on the dealer’s behalf;

- R.S.O. 1980,  
c. 274
- (l) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1970, c. 475, s. 1; 1971, c. 21, s. 2; 1971, c. 50, s. 85 (1); 1972, c. 1, ss. 23 (5), 47 (1, 2).
- Registrar
- 2.**—(1) There shall be a Registrar of Motor Vehicle Dealers and Salesmen who shall be appointed by the Lieutenant Governor in Council. 1971, c. 21, s. 3.
- Duties of Registrar
- (2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. R.S.O. 1970, c. 475, s. 2 (2).
- Registration required
- 3.**—(1) No person shall,
- (a) carry on business as a motor vehicle dealer unless he is registered under this Act; or
- (b) act as a salesman of or on behalf of a motor vehicle dealer unless he is registered as a salesman of such dealer and such dealer is registered as a motor vehicle dealer under this Act. R.S.O. 1970, c. 475, s. 3 (1); 1971, c. 21, s. 4.
- Representa-  
tion
- (2) No person shall publish or cause to be published any representation that he is registered under this Act. R.S.O. 1970, c. 475, s. 3 (2).
- Name and  
place of  
business
- (3) A registered motor vehicle dealer shall not carry on business in a name other than the name in which it is registered or invite the public to deal at a place other than that authorized by the registration. R.S.O. 1970, c. 475, s. 3 (3); 1971, c. 21, s. 4.
- Dealer to  
ensure  
salesmen  
registered
- 4.** A motor vehicle dealer shall not retain the services of a salesman who is not registered under this Act. R.S.O. 1970, c. 475, s. 4; 1971, c. 21, s. 4.
- Registration
- 5.**—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or



- (c) the applicant is a corporation and,
- (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
  - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1971, c. 50, s. 85 (2), *part*. Conditions of registration

**6.**—(1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5. Refusal to register

(2) Subject to section 7, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1971, c. 50, s. 85 (2), *part*. Suspension or revocation

**7.**—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant. Notice of proposal to refuse or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1). Powers of Registrar where no hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, Powers of Tribunal where hearing

on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions  
of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary  
cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation  
of registra-  
tion pending  
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order  
effective, stay  
R.S.O. 1980,  
c. 274

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 85 (2), *part*; 1972, c. 1, s. 23 (5).

Further  
applications

**8.** A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 475, s. 21.

Investiga-  
tion of  
complaints

**9.—(1)** Where the Registrar receives a complaint in respect of a motor vehicle dealer and so requests in writing, the motor vehicle dealer shall furnish the Registrar with

such information respecting the matter complained of as the Registrar requires. R.S.O. 1970, c. 475, s. 22 (1); 1971, c. 21, s. 4.

(2) The request under subsection (1) shall indicate the <sup>Idem</sup> nature of the inquiry involved. R.S.O. 1970, c. 475, s. 22 (2).

(3) For the purposes of subsection (1), the Registrar or any <sup>Idem</sup> person designated in writing by him may at any reasonable time enter upon the business premises of the motor vehicle dealer to make an inspection in relation to the complaint. R.S.O. 1970, c. 475, s. 22 (3); 1971, c. 21, s. 4.

**10.**—(1) The Registrar or any person designated by him <sup>Inspection</sup> in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with. R.S.O. 1970, c. 475, s. 23 (1).

(2) Where the Registrar has reasonable and probable <sup>Idem</sup> grounds to believe that any person is acting as a motor vehicle dealer or salesman while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3. R.S.O. 1970, c. 475, s. 23 (2); 1971, c. 21, s. 4.

**11.**—(1) Upon an inspection under section 9 or 10, the <sup>Powers on inspection</sup> person inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 475, s. 24 (1); 1971, c. 50, s. 85 (3).

Admissibility  
of copies

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 475, s. 24 (2).

Investiga-  
tions by  
order of  
Minister

R.S.O. 1980,  
c. 411

**12.** The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1971, c. 50, s. 85 (4), *part*.

Investigation  
by Director

**13.—**(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,  
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of  
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,



and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1980, c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). 1971, c. 50, s. 85 (4), *part*. Appointment of experts

Matters  
confidential

**14.**—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 9, 10, 11, 12 or 13, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony  
in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 50, s. 85 (4), *part.*

Report

**15.** Where, upon the report of an investigation made under subsection 13 (1), it appears to the Director that a person may have,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

R.S.C. 1970,  
c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. R.S.O. 1970, c. 475, s. 26; 1971, c. 50, s. 85 (5).

Order to  
refrain from  
dealing with  
assets

**16.**—(1) Where,

- (a) an investigation of any person has been ordered under section 13; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are

connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause (a) or (b) may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (a) or (b) to hold such assets or trust funds or direct the person referred to in clause (a) or (b) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction. 1971, c. 50, s. 85 (6).

R.S.O. 1980,  
cc. 223, 95, 54  
R.S.C. 1970,  
cc. B-3, W-10

(2) Subsection (1) does not apply where the person referred to in clause (1) (a) or (b) files with the Director, <sup>Bond in lieu</sup>

(a) a personal bond accompanied by collateral security;

(b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or

R.S.O. 1980,  
c. 192

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just. <sup>Application for direction</sup>

(4) In any of the circumstances mentioned in clause (1) (a) or (b), the Director may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, <sup>Notice to land registrar</sup>

and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. R.S.O. 1970, c. 475, s. 27 (2-4).

Cancellation  
of direction  
or  
registration

(5) Any person referred to in clause (1) (a) or (b) in respect of whom a direction has been given by the Director under subsection (1) or any person having an interest in land in respect of which a notice has been registered under subsection (4) may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 1971, c. 50, s. 85 (7).

Notice of  
changes

**17.**—(1) Every motor vehicle dealer shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership;
- (c) any commencement or termination of the employment, appointment or authorization of a salesman;
- (d) in the case of a corporation, any change in the ownership of its shares. R.S.O. 1970, c. 475, s. 28 (1); 1971, c. 21, s. 4.

Idem

(2) Every motor vehicle salesman shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service; and
- (b) any commencement or termination of his employment. R.S.O. 1970, c. 475, s. 28 (2); 1971, c. 21, s. 4.

Financial  
statements

**18.**—(1) Every motor vehicle dealer shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the motor vehicle dealer and certified



by a person licensed under the *Public Accountancy Act*. R.S.O. 1980, c. 405  
R.S.O. 1970, c. 475, s. 29 (1); 1971, c. 21, s. 4.

(2) The information contained in a financial statement filed under subsection (1) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. R.S.O. 1970, c. 475, s. 29 (2). Statement  
confidential

**19.** Where the Registrar believes on reasonable and probable grounds that a motor vehicle dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 85 (8); 1971, c. 21, s. 4. False  
advertising

**20.**—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations. R.S.O. 1970, c. 475, s. 31 (1); 1972, c. 1, s. 47 (3). Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 85 (9). When  
service  
deemed to  
be made

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 475, s. 31 (3). Exception

**21.**—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining  
orders

**Appeal** (2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 475, s. 32.

**Offences** **22.**—(1) Every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**Corporations** (2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

**Consent of Minister** (3) No proceedings under this section shall be instituted except with the consent of the Minister.

**Limitation** (4) No proceeding under clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

**Idem** (5) No proceeding under clause (1) (b) or (c) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. R.S.O. 1970, c. 475, s. 33.

**Certificate as evidence** **23.** A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 475, s. 34; 1971, c. 50, s. 85 (10).

**24.** The Lieutenant Governor in Council may make Regulations regulations,

- (a) exempting any class of person from this Act or the regulations or any provision thereof;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;
- (d) requiring registered motor vehicle dealers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (e) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (f) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
- (g) requiring and governing the maintenance of trust accounts by motor vehicle dealers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions therefor;
- (h) requiring and governing the books, accounts and records that shall be kept by motor vehicle dealers;
- (i) requiring motor vehicle dealers and salesmen to make returns and furnish information to the Registrar;
- (j) prescribing the information that motor vehicle dealers and salesmen shall disclose respecting the history of any class or classes of motor vehicles;

- (*k*) prohibiting prescribed alterations of motor vehicles or any part thereof and requiring disclosure of prescribed alterations not prohibited;
- (*l*) governing contracts for the sale and purchase of motor vehicles;
- (*m*) prescribing forms for the purposes of this Act and providing for their use;
- (*n*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit. R.S.O. 1970, c. 475, s. 35; 1971, c. 21, s. 4.



## CHAPTER 300

## Motor Vehicle Fuel Tax Act

## 1. In this Act,

Interpre-  
tation

- (a) "fuel" means any gas or liquid that may be used for the purpose of generating power by internal combustion, and includes any substance added thereto, but does not include,
- (i) any product that is excluded from this Act by the regulations and to which subsection 3 (5) does not apply,
  - (ii) gasoline on which the tax imposed by the *Gasoline Tax Act* has been paid, or
  - (iii) aviation fuel on which the tax imposed by the *Gasoline Tax Act* has been paid and that is used to create power to propel an aircraft;
- (b) "fuel tank" means that part of a motor vehicle in which fuel for generating power in the motor vehicle is kept;
- (c) "Minister" means the Minister of Revenue;
- (d) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power;
- (e) "purchaser" means a person who acquires or receives fuel for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as agent for, a principal who desires to acquire the fuel for use or consumption by him or other persons at his expense;
- (f) "registrant" means the holder of a registration certificate under this Act;
- (g) "regulations" means the regulations made under this Act;
- (h) "tax" includes all penalties and interest that are or may be added to a tax under this Act;

R.S.O. 1980,  
c. 186

- (i) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 282, s. 1; 1972, c. 3, s. 17 (1); 1972, c. 14, s. 1; 1972, c. 147, s. 1; 1979, c. 25, s. 1.

Persons  
required to  
register

2.—(1) Unless he is a registrant, no person shall supply fuel that is taxable or exempt from tax under this Act or the regulations to any person, except as authorized in writing by the Minister, and every person in the business of supplying fuel for any purpose shall register with the Minister as required by this section or the regulations.

Idem (2) Unless he is a registrant or is specifically exempted by the regulations from the application of this subsection, no person shall receive fuel as a registrant. 1977, c. 18, s. 1, *part*.

Idem (3) Where the Minister is satisfied that the applicant for a registration certificate will be acquiring fuel principally,

(a) for resale by the applicant;

(b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel, and that the amount of fuel to be used by the applicant will generally exceed 350 litres of fuel per month; or

(c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,

the Minister may issue a registration certificate to such applicant, and the certificate may be made subject to such conditions and restrictions as the Minister considers necessary to ensure that fuel acquired by the applicant through his use of the certificate will be dealt with by the applicant in accordance with clause (a), (b) or (c), as the case may be. 1977, c. 18, s. 1, *part*; 1978, c. 78, s. 1.

Idem (4) Every person required to be a registrant under this section or the regulations shall, by such form and in such manner as the Minister requires, apply for registration, and subject to this Act and the regulations, a registration certificate shall be issued by the Minister, and every such certificate shall expire on the 31st day of March next following the date of its issue, is not transferable, and may be renewed annually if the registrant to whom it is issued is not in

contravention of this Act or the regulations and continues to satisfy the conditions under which the certificate is issued.

(5) The Minister may refuse to issue a registration certificate to any applicant, or may suspend or cancel any registration certificate, if the person to whom the certificate is issued, or if an applicant to whom a certificate has been issued, contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate is or was issued, but, subject to subsection (6), before any refusal, suspension or cancellation is made, the applicant or registrant, as the case may be, shall be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case.

Refusal to  
issue and  
cancellation

(6) Where a registrant has failed to remit the tax that he has collected under this Act or that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registrant and without a hearing, suspend forthwith the registrant's certificate of registration, and the notice shall state the failure of the registrant for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registrant's suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

Idem

(7) The notice under subsection (6) and a notice of hearing under subsection (5) is properly served if served either by personal service or by registered mail sent to the last known address of the registrant or applicant, as the case may be.

Service of  
notice

(8) Every person who,

Offence

- (a) is required to become a registrant by this section or by the regulations and who fails to do so;
- (b) being a registrant, contravenes this Act or the regulations or any condition or restriction contained in his certificate of registration issued under this Act or the regulations; or
- (c) not being a registrant, supplies, disposes of, consumes or deals with any fuel in a manner that would

require him to be a registrant under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than \$100 and not more than \$2,000. 1977, c. 18, s. 1, *part*.

Tax

**3.—**(1) Every purchaser shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2) Every registrant shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system. 1979, c. 25, s. 2 (1).

Payment  
of tax

(3) Subject to subsection (5), the tax imposed by subsection (1) shall be paid at the time the fuel is supplied to the purchaser or, where the fuel is acquired by the purchaser outside Ontario, at the time such fuel is used in Ontario, and the tax imposed by subsection (2) shall be paid in accordance with section 10.

Security  
for tax

(4) Where a purchaser uses in Ontario fuel that was acquired outside Ontario, such purchaser shall, upon the demand of the Minister or of some one authorized by the Minister to make such a demand, furnish to the Minister security in cash or in such other form as is satisfactory to the Minister that is sufficient for the payment of all tax imposed by this Act on the use by such purchaser in Ontario of fuel on which the tax imposed by this Act has not been paid, and in the event that the tax for which the security is given is not paid, the Minister may realize upon the security to the extent necessary to pay such tax.

Payment  
of tax

(5) Where any person places any product that is excluded from this Act by the regulations in a fuel tank, such product thereupon becomes taxable as fuel under this Act and is no longer excluded from this Act, and the person so doing shall forthwith pay the tax imposed by this Act on such fuel to the Treasurer directly or through any registrant.



(6) Every person who knowingly fails to pay the tax imposed <sup>Penalty</sup> by subsection (1), (2) or (5) when required by this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000.

(7) Every person who fails to comply with subsection (4) is <sup>Idem</sup> guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

(8) Every person who is not a registrant and who knowingly <sup>Idem</sup> supplies or makes available to a purchaser fuel that becomes taxable under this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax imposed by this Act on the fuel that he has supplied or made available to a purchaser plus an amount that is not less than \$100 and not more than \$5,000.

(9) Where it is established to the satisfaction of the Minister that a person who is not a registrant has supplied or made available to a purchaser fuel that becomes taxable under this Act, any person thereunto authorized by the Minister may enter upon the business premises of such person who is not a registrant and may audit and examine the books, records and accounts of such person to ascertain the amount of fuel that has been supplied under subsection (8) and the amount of tax that is payable with respect thereto. 1972, c. 147, s. 2. <sup>Examination of books, etc.</sup>

(10) Where any person selling fuel receives any payment <sup>Amounts in lieu of tax</sup> made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act and, for the purposes of the assessment and collection of such payment, the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a registrant. 1977, c. 18, s. 2; 1979, c. 25, s. 2 (2).

4.—(1) Where there are more than 200 litres of fuel in the fuel tank, including any supplemental tanks, of a motor <sup>Duty of operator where more than 200 litres in fuel tank</sup>

vehicle, such fuel shall be deemed to have been purchased in Ontario, and the person in charge of any such motor vehicle shall have in his possession proof that the tax imposed by this Act was paid or that he is a registrant. R.S.O. 1970, c. 282, s. 4 (1); 1972, c. 147, s. 3; 1977, c. 18, s. 3; 1978, c. 78, s. 3.

**Offence**

(2) Every person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

**Exception**

(3) This section does not apply to a public commercial vehicle for which there has been issued a Class L single-trip permit under the *Public Commercial Vehicles Act*. R.S.O. 1970, c. 282, s. 4 (2, 3).

R.S.O. 1980,  
c. 407

**Detention  
and  
examination  
of motor  
vehicle**

5.—(1) For the purpose of ascertaining that the tax imposed by this Act has been paid on fuel in the fuel tank of a motor vehicle, or for the purpose of ascertaining whether any tax imposed by this Act on such fuel is payable, any person thereunto authorized by the Minister may stop and detain any motor vehicle in Ontario that has a fuel tank that is capable of holding more than 200 litres and may examine such motor vehicle and the fuel contained in any fuel tank thereof, and may demand proof that the tax imposed by this Act for the fuel in the fuel tank of such motor vehicle has been paid. 1972, c. 147, s. 4, *part*; 1977, c. 18, s. 4 (1); 1978, c. 78, s. 4.

**Penalty**

(2) Every operator of a motor vehicle that may be stopped and detained under subsection (1) who refuses to permit the detention and examination of such motor vehicle that is under his control, or who refuses to permit the examination of the fuel used in such motor vehicle, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500 for each offence. 1972, c. 147, s. 4, *part*; 1977, c. 18, s. 4 (2).

**Invoice**

6.—(1) Every registrant shall inform every purchaser of the price of the fuel and shall deliver to him an invoice showing,

(a) the number of his registration certificate;

(b) the cost of the fuel to the purchaser; and

(c) the amount of the tax paid by the purchaser. R.S.O. 1970, c. 282, s. 5; 1977, c. 18, s. 5 (1).

**Respon-  
sibility of  
purchaser**

(2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that

contains fuel shall furnish to the Minister proof that the fuel was purchased from a registrant or that tax has been paid on such fuel or that no tax was payable under this Act on such fuel. 1977, c. 18, s. 5 (2).

7. The Minister may require any registrant to furnish <sup>Security</sup> security on such terms and conditions and in such amount as the Minister considers appropriate. R.S.O. 1970, c. 282, s. 6; 1979, c. 25, s. 3.

8.—(1) Subject to subsection (2), every registrant shall, as <sup>Collection</sup> agent of the Minister, collect from the purchaser the tax imposed by this Act. R.S.O. 1970, c. 282, s. 7 (1).

(2) No registrant shall collect the tax imposed by this Act <sup>Exception</sup> on fuel supplied by him to a registrant, unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, or unless the registrant to whom the fuel is supplied is required or permitted by this Act or the Minister to pay the tax imposed by this Act. 1977, c. 18, s. 6. <sup>R.S.O. 1980, c. 198</sup>

(3) For the purpose of collecting the tax, the Minister may <sup>Arrange-</sup> enter into such arrangement with a registrant as he considers <sup>ments for</sup> expedient. R.S.O. 1970, c. 282, s. 7 (3); 1972, c. 14, s. 3. <sup>collection</sup>

(4) Every registrant shall be deemed to hold the moneys <sup>Tax to</sup> collected by him under this Act in trust for the Crown in right <sup>be trust</sup> of Ontario. <sup>moneys</sup>

(5) Every registrant who refuses or neglects to collect the <sup>Penalty for</sup> tax in accordance with this Act is guilty of an offence and on <sup>failure to</sup> conviction is liable to a fine of not less than the amount of the tax <sup>collect tax</sup> that he refused or neglected to collect and \$10, and not more than the amount of the tax that he refused or neglected to collect and \$1,000.

(6) Every employee of a registrant who permits or authorizes <sup>Penalty for</sup> or is a party or privy to supplying fuel to a purchaser with- <sup>failure of</sup> out collecting from the purchaser the tax imposed by this <sup>employee to</sup> Act is guilty of an offence and on conviction is liable to a fine equal <sup>collect tax</sup> to the amount of the tax and \$50. R.S.O. 1970, c. 282, s. 7 (4-6).

9.—(1) Every registrant shall,

<sup>Returns</sup>

- (a) without notice or demand and at the time and in the manner prescribed in the regulations; or
- (b) on or before the day designated in the demand of the Minister served on the registrant by hand or by registered letter,

deliver to the Minister such return as he requires for the purpose of carrying out this Act. R.S.O. 1970, c. 282, s. 8 (1); 1978, c. 78, s. 5.

Verification  
of returns

(2) Every return shall be verified by the certificate of the registrant and, if the registrant is not an individual, of its president or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of the registrant and exhibit truly, correctly and completely all information for the period covered by the return.

Penalty for  
failure to  
deliver  
return

(3) Every registrant who fails to comply with subsection (1) shall pay a penalty of,

(a) \$10; or

(b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall the penalty be more than \$500.

Penalty for  
failure to  
complete  
return

(4) Every registrant who fails to complete the information required in the return to be delivered to the Minister under subsection (1) is guilty of an offence and on conviction is liable to a fine of \$20. R.S.O. 1970, c. 282, s. 8 (2-4).

Trans-  
mission  
of tax

10.—(1) Every registrant shall transmit with the return required by section 9 the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown therein. R.S.O. 1970, c. 282, s. 9 (1).

Deficiency

(2) Subject to subsection (3), where a registrant transmits less than the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown by the return, he shall pay to the Treasurer interest at such rate as is prescribed in the regulations upon the deficiency calculated from the date of default until the date of transmission to the Treasurer. R.S.O. 1970, c. 282, s. 9 (2); 1972, c. 147, s. 5; 1975, c. 10, s. 3 (1).

Where refund  
of tax  
claimed

(3) Where, in a return delivered by a registrant in accordance with this Act and the regulations, it is shown that tax under this Act is payable by the registrant with respect to his use after the 7th day of April, 1975 of fuel, and, where, at the time such return is delivered to the Minister, the registrant also applies for a refund under section 24 of some or all of such tax on fuel so used by him, he may,



notwithstanding subsection (1), retain the amount a refund of which he claims until the refund for which he has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the registrant, and upon his being notified of the refusal to refund any amount a refund of which has been claimed, the registrant shall, with his next return or at such earlier time as is specified in the notification, transmit to the Treasurer any amount a refund of which has been refused together with interest thereon at the rate of 9 per cent per annum or such other rate as is prescribed by the regulations for the period during which such amount has been retained by the registrant, and upon his being notified of the approval of the refund of any amount a refund of which has been claimed, the registrant may, subject to subsection (4), retain for his own use such amount so approved.

(4) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax under this Act owing to the Crown, and the provisions of this Act relating to the assessment (including objection and appeal therefrom) and to collection of taxes apply with necessary modifications to the said amount. 1975, c. 10, s. 3 (2).

Recovery  
of excess  
refund

**11.**—(1) If the Minister, in order for him to assess the tax collectable by a registrant or of the tax payable by a registrant or purchaser under this Act or for any other purpose, desires any information or additional information, or a return from a registrant or purchaser who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the registrant or purchaser, or from the president, manager, secretary, or any director, agent or representative of any registrant or purchaser, such information, additional information or return, and the person upon whom the demand is made shall deliver to the Minister the information, additional information or return within the time specified in the registered letter.

Minister  
may demand  
information

(2) The Minister may, by registered letter, require the production under oath or otherwise by any registrant or purchaser, or by the president, manager, secretary, or any director, agent or representative of any registrant or purchaser, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of such registrant or purchaser, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents.

Production  
of letters,  
accounts, etc.

(3) If a registrant or purchaser fails or refuses to keep adequate books or accounts for the purpose of ascertaining

Records to  
be kept

the amount of the tax payable by him or payable and collectable by him, as the case may be, the Minister may require such registrant or purchaser to keep such records and accounts as the Minister specifies. 1972, c. 147, s. 6 (1).

Penalty

(4) For every default in complying with subsection (1), (2) or (3), the person in default is guilty of an offence and on conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 282, s. 10 (4).

Compliance  
of Minister,  
etc., to  
be proved  
by affidavit

(5) For the purposes of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Minister, as well as the failure of any person to comply with the requirements of this Act, are sufficiently proved in any court by affidavit of the Minister or any officer of the Ministry of Revenue. R.S.O. 1970, c. 282, s. 10 (5); 1972, c. 1, s. 1.

Inquiry as  
to amount  
of tax  
collectable  
or payable

R.S.O. 1980,  
c. 411

(6) Any officer authorized by the Minister may make such inquiry as he considers necessary to ascertain the amount of any tax collectable by a registrant or any tax payable by a registrant under this Act, and for the purposes of such inquiry such officer has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 282, s. 10 (6); 1971, c. 49, s. 18.

Notice of  
assessment

(7) After examination of the return of a registrant, the Minister shall send by mail or by registered mail or deliver by personal service a notice of assessment to such registrant verifying or altering the amount of tax shown to be collectable by the registrant or to be payable by the registrant in his return, and any additional tax found to be collectable or payable, as the case may be, over the amount shown in the return shall be transmitted within one month from the date of mailing of the notice of assessment, whether or not an objection or appeal from the assessment is made or taken, and such additional tax shall bear interest at the rate prescribed by the regulations calculated from the last date prescribed for making the return to the date of transmission to the Treasurer.

Idem

(8) The Minister may at any time he considers reasonable assess any tax collectable or payable by a registrant or purchaser under this Act and shall send by mail or by registered mail or deliver by personal service a notice of assessment requiring the registrant or purchaser to transmit the tax assessed forthwith to the Treasurer.

(9) A registrant or purchaser shall, within one month of the date of an assessment made against him, transmit the tax claimed in the assessment whether or not an objection or appeal from the assessment is outstanding, and if a registrant or purchaser fails to transmit the tax at the time required, he shall pay to the Treasurer interest at the rate prescribed by the regulations upon the tax from the due date to the date of transmission to the Treasurer. Payment of tax assessed

(10) Where a registrant or purchaser objects to an assessment made under this section, he may, within ninety days from the day of mailing of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(11) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service  
1972, c. 147, s. 6 (2).

**12.**—(1) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the registrant or purchaser, as the case may be, of his action by registered letter. 1972, c. 148, s. 7, *part*. Reconsideration

(2) After the Minister has given the notification required by subsection (1), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection (1) that the Minister has confirmed the assessment or reassessed. 1972, c. 148, s. 7, *part, revised*. Appeal

(3) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business. Appeal, how instituted

(4) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister. Service

(5) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal. Content of notice of appeal

Reply to  
notice of  
appeal

(6) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter  
deemed  
action

(7) Upon the filing of the material referred to in subsection (6), the matter shall be deemed to be an action in the court.

Disposition  
of appeal

(8) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

Idem

(9) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

Procedure

(10) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under subsection (7), and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

Irregulari-  
ties

(11) No assessment shall be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

Extension  
of time

(12) The time within which a notice of objection under subsection 11 (10) or a notice of appeal under subsection (2) of this section is to be served may be extended by the Minister if applica-



tion for such extension is made before the time for service of the notice of objection or notice of appeal, as the case may be, has expired. 1972, c. 147, s. 7, *part*.

**13.**—(1) The Minister or Deputy Minister of Revenue shall determine the amount of the tax referred to in subsection 2 (8) or in subsection 3 (6) or (8) or in subsection 8 (5) or (6) from such information as is available to him and shall issue a certificate as to that amount. 1972, c. 147, s. 7, *part*; 1977, c. 18, s. 7 (1). Certificate to prove unpaid tax

(2) In any prosecution under subsection 2 (8) or under subsection 3 (6), (7) or (8) or under subsection 8 (5) or (6), a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax that should have been collected or paid is *prima facie* evidence of the amount of tax that should have been collected or paid and of the authority of the person giving or making the certificate without any proof of appointment or signature. 1972, c. 147, s. 7, *part*; 1977, c. 18, s. 7 (2). Idem

(3) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information may be for several offences

(4) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act. 1972, c. 147, s. 7, *part*. Remedies to be independent

**14.** The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 282, s. 11. Time for making return

**15.** Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor. R.S.O. 1970, c. 282, s. 12. Declarations and affidavits

**16.**—(1) Every person who makes a false statement in any return or in any information made or furnished to the Minister under this Act is guilty of an offence and on conviction is False statements

liable to a fine of not more than \$1,000 or to imprisonment for not more than six months, or both. R.S.O. 1970, c. 282, s. 13.

Officers,  
etc., of  
corporations

(2) Any person who, being an officer, director or agent of a corporation, directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act and for which the corporation would be liable for prosecution, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1975, c. 10, s. 4.

Continuance  
of liability

**17.** Notwithstanding any prior accounting or where no accounting has been made, the registrant continues to be liable for any tax that is collectable by him and for any tax that is payable by him and that has not been transmitted to the Treasurer. R.S.O. 1970, c. 282, s. 14.

Disposition  
of fines;  
penalties  
payable on  
demand

**18.** The fines imposed for offences under this Act shall be paid over to the Treasurer, and every penalty imposed by this Act is payable upon and in accordance with the demand of the Minister therefor. R.S.O. 1970, c. 282, s. 15.

When  
information  
to be laid

**19.** An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1972, c. 147, s. 7, *part*.

Recovery of  
tax and  
penalty

**20.—(1)** Upon default of transmission by a registrant of any tax collectable by him or of any tax or penalty payable by him or upon default of payment by any purchaser of any tax payable by him under this Act,

- (a) the Minister may bring an action for recovery thereof in any court of competent jurisdiction and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or
- (b) the Minister may issue a warrant and direct it to the sheriff of any county or district in which any property of the registrant or purchaser is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the registrant or purchaser, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. 1972, c. 147, s. 8, *part*; 1978, c. 78, s. 6 (1).

(2) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act. Garnishment

(3) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. Idem

(4) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser. Liability of debtor

(5) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name and style other than his own name, the registered or other letter under subsection (2) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service of garnishee

(6) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection (2) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(7) Subject to the *Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied. Garnishment of wages  
R.S.O. 1980,  
c. 526

and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Failure  
to remit

(8) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. 1978, c. 78, s. 6 (2).

Investi-  
gations

**21.—**(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle containing fuel or enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept under this Act or the regulations, and may,

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;
- (b) examine any fuel or motor vehicle or the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;
- (c) require a purchaser, retailer, wholesaler, importer, registrant or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer, registrant or operator is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such purchaser, retailer, wholesaler, importer or registrant or in the motor vehicle of such operator to give him all reasonable assistance with his audit or examination and to answer all questions



relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, registrant, or from the owner or operator of a motor vehicle, or if any of them is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof, <sup>Idem</sup>

- (a) any information or a return as required under this Act or the regulations; or
- (b) production or production on oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place, or any motor vehicle containing fuel, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath

Production  
of evidence  
to prove  
tax payable  
by another  
person

or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any purchaser or registrant, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

**Copies**

(5) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

**Compliance**

(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing.

**Idem**

(7) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything that he is required by this section to do.

**Offence**

(8) Every person who contravenes this section or who fails to provide any information or make any return requested under this section is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the offence continues. 1977, c. 18, s. 8, *part*.

**Information  
on bulk  
shipments  
of fuel**

**22.—**(1) Every person carrying fuel in a motor vehicle that is equipped to carry more than 200 litres of fuel in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information,

- (a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;
- (b) the quantity of fuel delivered or to be delivered to any person; or

- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements. 1977, c. 18, s. 8, *part*; 1978, c. 78, s. 7.

(2) Where the information required to be furnished by subsection (1) is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection (1) or the furnishing of accurate information as required by subsection (1). 1977, c. 18, s. 8, *part*. Detention  
of motor  
vehicle

**23.** Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable under this Act be paid, the Minister may exempt a person from payment of the whole or any part of the interest. 1975, c. 10, s. 5. Relief from  
interest

**24.—(1)** The Minister may refund the full tax imposed by this Act where the fuel on which the tax was paid was, in the opinion of the Minister, used exclusively, Refunds

- (a) in the business of farming or commercial fishing; or
- (b) in any business, industry or institution for any business, industrial or institutional purpose that is not prescribed by regulation to be excluded from the application of this section,

but no refund of tax may be made with respect to fuel used to operate a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, or used in any motor vehicle operated or intended to be operated principally for the pleasure or recreation of its owner or operator, or with respect to any fuel purchased prior to the 8th day of April, 1975 by the person claiming a refund under this section.

R.S.O. 1980,  
c. 198

(2) A refund under this Act shall not be made unless an application therefor, accompanied by properly receipted Application  
for refund

invoices, is received by the Minister within two years of the date when the tax a refund of which is claimed was paid, and there shall be furnished to the Minister such evidence as he requires to satisfy him of the entitlement of the applicant to the refund claimed.

Over-  
payments

(3) Where a registrant has transmitted to the Treasurer an amount in excess of the tax collectable by him under this Act and of the taxes, interest and penalties payable by him under this Act, such excess amount shall be refunded to him upon his application therefor made within two years of the date of his payment of such excess amount, and where any overpayment of tax by a registrant or a purchaser is the result of an assessment or reassessment under this Act or of the final decision of a court in proceedings commenced under section 12, such overpayment shall, notwithstanding subsection (2), be refunded without an application therefor.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the provisions of this Act and the regulations in force prior to the 8th day of April, 1975 with respect to refunds of tax imposed by this Act continue to apply to or with respect to tax paid under this Act on fuel purchased prior to that date. 1975, c. 10, s. 6.

Application  
of section

**25.**—(1) The provisions of this section apply notwithstanding any provision of this Act to the contrary.

Interpre-  
tation

(2) In this section, “authorized registrant” means a registrant whom the Minister authorizes in writing to receive certificates of exemption issued under this section, and no person who is not an authorized registrant shall receive or act on any such certificate of exemption.

Certificate of  
exemption

(3) Where the Minister is satisfied that fuel to be acquired by a purchaser will be used exclusively by that purchaser in the business of farming or commercial fishing and where the Minister has determined to make a full refund of the tax imposed by this Act on fuel so used by such a purchaser, the Minister may issue to such purchaser a certificate of exemption that shall show the date when the certificate is issued, the name and address of the person to whom the certificate is issued and a number differentiating that certificate from other similar certificates, and such certificate may contain restrictions limiting the time during which it remains valid, the use to which any fuel may be put that is purchased through the use of the certificate, and such other restrictions as the Minister considers necessary.

Exemption  
for purchaser

(4) Any purchaser to whom a certificate of exemption is issued may, by complying with the terms of the certificate



and after delivering the certificate up to an authorized registrant, purchase from that authorized registrant fuel exempt from the tax otherwise payable under this Act, and such purchaser is not liable to pay the tax imposed by this Act unless he uses such fuel in a manner that is not authorized by the certificate.

(5) An authorized registrant who sells or supplies fuel to a purchaser who is acquiring such fuel pursuant to a certificate of exemption issued under this Act shall not, while the certificate remains valid, collect from such purchaser any tax on any fuel that is purchased from such authorized registrant on the authority of a certificate of exemption delivered over to him, but every authorized registrant who having received a certificate of exemption from a purchaser sells or supplies fuel on which he does not collect the tax imposed by this Act because of the purchaser's possessing a certificate of exemption shall provide to the Minister the information that an authorized registrant is required by the regulations to provide.

When  
authorized  
registrant  
not to collect  
tax

(6) Every authorized registrant who receives a certificate of exemption from a purchaser shall keep in his records the particulars shown on the certificate, and shall send the certificate to the Minister.

Certificate  
to be  
recorded

(7) Any person who knowingly contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$10,000.

Offence

(8) Where an authorized registrant or a purchaser holding a certificate of exemption issued under this section is found guilty of an offence under subsection (7), the Minister may cancel the authorization of such authorized registrant or revoke the certificate of such purchaser, as the case may be, and where the Minister determines that he will no longer make a full refund to a purchaser holding a certificate of exemption issued under this section, the Minister shall revoke the certificate and shall give notice of such revocation to the purchaser and to the authorized registrant to whom the purchaser has delivered over the certificate of exemption. 1972, c. 147, s. 10.

Revocation  
of certificate

**26.**—(1) Subject to subsection (2), no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Information  
to be secret

Communica-  
tion of  
information  
to other  
jurisdictions

(2) The Minister may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

Offence

(3) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 282, s. 19.

Inter-  
provincial  
settlement  
of competing  
tax claims

**27.** For the purpose of simplifying compliance with this Act and the administration and collection of the tax imposed by this Act, and in order to provide for reciprocal arrangements to settle competing claims for tax on the acquisition and use of fuel by persons carrying on business in more than one province or territory of Canada, the Lieutenant Governor in Council may, upon the recommendation of the Minister and on such terms and conditions as are considered necessary and expedient, enter into an agreement with any province or territory of Canada that tax paid to one jurisdiction on the acquisition there of fuel that is transferred to the other jurisdiction and that becomes liable to tax in such other jurisdiction under this Act or any similar legislation in force in such other jurisdiction may be paid by one jurisdiction to the other in reduction of the liability to such tax arising in the jurisdiction receiving such payment and in lieu of refunding such tax to the person who paid it and who became liable for a similar tax in such other jurisdiction. 1978, c. 78, s. 8.

Remedies  
for recovery  
of tax and  
penalties

**28.** The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 282, s. 20.

**29.—**(1) The Lieutenant Governor in Council may make Regulations regulations,

- (a) excluding products from this Act;
- (b) exempting any class of persons from the payment of the tax imposed under this Act;
- (c) refunding any tax or any portion thereof paid under this Act to any purchaser or class of purchasers and prescribing the records and material to be furnished upon application for a refund;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (e) prescribing purposes for which fuel is used that are excluded from the application of section 24;
- (f) exempting from a part or all of the tax imposed by this Act fuel that will be used by specified persons or in a specified manner or in a specified type of machinery or class of industry, and relieving registrants from their obligation of collecting a part or all of the tax on fuel so used;
- (g) prescribing additional information to be contained in any certificate of exemption issued under this Act, and attaching additional conditions to the use of any such certificate;
- (h) providing for the furnishing to the Minister by registrants of information relating to the sale or delivery by them of fuel that is exempt from the tax imposed by this Act;
- (i) prescribing rates of interest payable under this Act;
- (j) prescribing records to be kept by registrants, information to be shown in a return to be delivered by a registrant, and prescribing times or periods of time, in lieu of those mentioned in section 9, at which, or with respect to which, returns shall be delivered by any registrant or class of registrants;
- (k) prescribing, for the purpose of subsection 2 (3), any manner of disposing of or consuming fuel;
- (l) providing for the calculation and payment of interest on amounts paid in excess of the tax

imposed by this Act, and prescribing the rate of such interest;

- (m) providing for the refund in special circumstances of the whole or any part of the tax imposed by this Act, and prescribing the terms and conditions under which such refund may be made;
- (n) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act. R.S.O. 1970, c. 282, s. 21; 1972, c. 147, s. 11; 1975, c. 10, s. 7.

Idem

(2) The Lieutenant Governor in Council may make regulations establishing a system of registration for the purposes of this Act, and,

- (a) requiring persons who buy, sell, deal in, consume or refine any fuel, including fuel for the heating of homes and buildings, to become registrants under this Act for the purpose of accounting for, collecting or facilitating the administration of the tax imposed by this Act;
- (b) prescribing classes of registrants, the conditions and restrictions affecting any prescribed class of registrant, and the method of collecting or paying the tax imposed by this Act to be followed by any prescribed class of registrant;
- (c) prescribing the information, returns and records to be given, made or kept by any registrant or class of registrants;
- (d) requiring the registration of the operators of commercially-used motor vehicles that consume or carry fuel and that are not vehicles operated exclusively for pleasure or recreation;
- (e) exempting any person or class of persons from the application of subsection 2 (2).

Idem

(3) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

Idem

(4) A regulation, other than a regulation made under subsection (2), is, if it so provides, effective with reference to a period before it was filed. 1977, c. 18, s. 9.



## CHAPTER 301

## Motorized Snow Vehicles Act

## 1. In this Act,

Interpre-  
tation

- (a) "conservation officer" means a conservation officer appointed under the *Game and Fish Act*; R.S.O. 1980, c. 182
- (b) "driver's licence" means a valid and subsisting licence to drive a motor vehicle on a highway issued under the authority of the *Highway Traffic Act*; R.S.O. 1980, c. 198
- (c) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
- (d) "Minister" means the Minister of Transportation and Communications;
- (e) "Ministry" means the Ministry of Transportation and Communications;
- (f) "motorized snow vehicle" means a self-propelled vehicle designed to be driven primarily on snow;
- (g) "permit" means a permit issued under section 2;
- (h) "public trail" means the whole of any motorized snow vehicle trail established and maintained in whole or in part by public funds;
- (i) "registration number" means a number or combination of letters and numbers allocated to a motorized snow vehicle by the Ministry on the registration thereof;
- (j) "regulations" means the regulations made under this Act;

(*k*) “serviced roadway” means the part of highway that is improved, designed or ordinarily used for vehicular traffic, and includes the ploughed portion of the shoulder, and, where a highway includes two or more separate serviced roadways, the term “serviced roadway” refers to any one serviced roadway separately and not to all of the serviced roadways collectively;

(*l*) “validate” means render in force for the period of time prescribed by the regulations, and “validation” and “validated” have corresponding meanings. 1974, c. 113, s. 1; 1975 (2nd Sess.), c. 15, s. 1.

Permit  
required

2.—(1) The owner of a motorized snow vehicle shall not,

(*a*) drive the motorized snow vehicle; or

(*b*) cause or permit the motorized snow vehicle to be driven,

except under the authority of a permit for the motorized snow vehicle issued or validated under subsection (3) or except on lands occupied by the owner of the motorized snow vehicle.

Dealer  
shall  
register

(2) Every dealer in motorized snow vehicles who sells a new motorized snow vehicle shall register the motorized snow vehicle on behalf of the purchaser thereof with the Ministry within six days following the sale.

Issuance  
of  
permits

(3) Upon registration of a motorized snow vehicle by a dealer pursuant to subsection (2) or by the owner of the motorized snow vehicle and upon payment of the fee prescribed by the regulations, the Ministry or any person authorized by the Minister shall issue for the motorized snow vehicle a numbered permit in accordance with the regulations, bearing the registration number of the motorized snow vehicle and provide such evidence of the issue of the permit for display upon the motorized snow vehicle as may be prescribed by the regulations.

Issuance  
of  
validations  
of  
permits

(4) Upon the application of the owner of a motorized snow vehicle for which a permit has been issued and upon payment of the fee prescribed by the regulations, the Minister or any person authorized by the Minister shall validate the permit and provide such evidence of validation as may be prescribed by the regulations.

(5) The Ministry shall maintain,

Records

(a) a numerical index record of all permits issued and in force under this section; and

(b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

(6) A permit that is issued or validated is in force during the period of time prescribed by the regulations.

Term of permit

(7) Every motorized snow vehicle, unless exempted under this Act or the regulations, shall have attached to or painted on both sides of the cowling in a clearly visible position a sign showing the registration number of the motorized snow vehicle in the form and manner prescribed in the regulations.

Registration number to be displayed

(8) Every driver of a motorized snow vehicle who fails to display on the motorized snow vehicle in the form and manner prescribed by the regulations evidence of the issue or validation of the permit is guilty of an offence.

Display of evidence of permit

(9) This section does not apply,

Exceptions as to manufacturers, dealers, non-residents

(a) to manufacturers of motorized snow vehicles or to dealers in motorized snow vehicles in relation to motorized snow vehicles,

(i) that are kept for sale and are not driven or permitted to be driven upon a highway, or

(ii) that are not rented or leased or kept for renting or leasing to any person;

(b) to a motorized snow vehicle owned by a person who does not reside in Ontario if the vehicle is registered in some other jurisdiction and has attached to it the number plate furnished by the other jurisdiction.

(10) The Minister may give authority to any person to issue permits, to validate permits and to provide evidence of such issue or validation of permits for motorized snow vehicles and may define the duties and powers of such person and may authorize and fix the fee to be retained by the person so authorized for each permit issued or validated.

Local issuance of permits

Regulations  
re permits  
and  
registration  
numbers

(11) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this section with respect to permits and registration numbers and in particular,

- (a) prescribing forms for the purposes of this section and requiring their use;
- (b) respecting the issuance, validation and replacement of permits;
- (c) prescribing the period of time during which permits shall be in force that are issued or validated for motorized snow vehicles;
- (d) prescribing fees for the issuance, validation and replacement of permits and of evidence of the issue or validation of permits;
- (e) governing the method of validating permits and the form of and manner of affixing, displaying or showing evidence of the issue or validation of permits on motorized snow vehicles;
- (f) respecting permits and registration numbers for and the operation of motorized snow vehicles owned by manufacturers or dealers and not kept by them for private use; and
- (g) prescribing the form and manner of displaying registration numbers. 1974, c. 113, s. 2.

False  
statement

**3.**—(1) No person shall knowingly make a false statement of fact in any application, declaration, affidavit or paper-writing required by this Act or the regulations.

Change of  
address

(2) Where an owner of a motorized snow vehicle changes his address as stated in an application for a permit or for a validation of a permit or in a previous notice sent or filed under this subsection, he shall within six days send by registered mail to or file with the Ministry notice of his new address.

Change of  
ownership

(3) Every person who sells or purchases a motorized snow vehicle shall, within six days of the sale or purchase, forward to the Ministry on the prescribed form a notice of the sale or purchase. 1974, c. 113, s. 3.

Registration  
number to be  
kept clean,  
unobstructed

**4.** When a motorized snow vehicle is being driven, the registration number required to be displayed under subsection 2 (7)



shall be kept free of dirt, snow and ice, in good repair and the view thereof shall not be obscured or obstructed by any part of the motorized snow vehicle or any equipment or attachment thereon or by the load carried thereon. 1974, c. 113, s. 4.

5.—(1) Subject to subsection (2), no person shall drive a motorized snow vehicle upon the serviced roadway of the King's Highway or of a secondary highway except to cross.

Driving on  
King's  
Highway or  
secondary  
highway

(2) The Minister may make regulations designating any part or parts of the King's Highway or a secondary highway,

Regulations

(a) across the serviced roadway of which no motorized snow vehicle may be driven;

(b) upon which motorized snow vehicles may be driven;  
or

(c) upon which motorized snow vehicles may not be driven. 1974, c. 113, s. 5.

6.—(1) In this section "local municipality" means a city, town, village or township.

Interpre-  
tation

(2) The council of a local municipality may pass by-laws regulating, governing or prohibiting the operation of motorized snow vehicles within the municipality including any highways therein or any part or parts thereof.

Local  
municipality  
may pass  
by-laws

(3) Where a by-law is passed under subsection (2), the provisions regulating or governing the operation of motorized snow vehicles under the by-law do not apply to highways or any part or parts thereof that are not under the jurisdiction of the local municipality.

Application of  
subs. (2)

(4) The council of a county or of a district, metropolitan or regional municipality may pass by-laws regulating and governing the operation of motorized snow vehicles along or across any highway or part of a highway under its jurisdiction.

County or  
municipalities  
may pass  
by-laws

(5) Where the operation of motorized snow vehicles is not prohibited on a highway under the jurisdiction of a county or of a district, metropolitan or regional municipality by a by-law passed under subsection (2), the council of the municipality may pass by-laws prohibiting the operation of motorized snow vehicles along or across the highway or any part thereof.

County or  
municipalities  
may pass  
prohibiting  
by-laws

Territory  
without  
municipal  
organization

(6) The Lieutenant Governor in Council may make regulations regulating, governing or prohibiting the operation of motorized snow vehicles upon serviced roadways in territories without municipal organization.

Application of  
R.S.O. 1980,  
c. 302

(7) Part XIX of the *Municipal Act* applies to by-laws passed under this section. 1974, c. 113, s. 6.

Crossing  
roadway

7. No person shall drive a motorized snow vehicle across a serviced roadway except at an angle of approximately 90 degrees to the direction of the serviced roadway. 1974, c. 113, s. 7.

Driving  
along  
highway

8.—(1) Subject to subsection (2), no person shall drive a motorized snow vehicle along a highway unless,

- (a) he has attained the full age of sixteen years; and
- (b) he holds a driver's licence; or
- (c) he holds a motorized snow vehicle operator's licence; or
- (d) he is a resident of any other province, country or state and holds a licence issued by such province, country or state which authorizes him to drive a motorized snow vehicle.

Driving  
across  
highway

(2) No person shall drive a motorized snow vehicle across a highway unless,

- (a) he has attained the full age of fourteen years; and
- (b) he holds a driver's licence, a motorized snow vehicle operator's licence or is a resident of any other province, country or state and holds a licence issued by such province, country or state which authorizes him to drive a motorized snow vehicle.

Driving on  
public  
trails

(3) No person shall drive a motorized snow vehicle upon a public trail unless,

- (a) he has attained the full age of twelve years; and
- (b) he holds a driver's licence, a motorized snow vehicle operator's licence or is a resident of any other province, country or state and holds a licence issued by such province, country or state which authorizes him to drive a motorized snow vehicle. 1974, c. 113, s. 8.

Minister  
may issue  
licence

9.—(1) The Minister may issue a motorized snow vehicle operator's licence to any person who has attained the full age of twelve years and who meets the requirements of this Act and the regulations authorizing the person to drive a

motorized snow vehicle, subject to any conditions and for the period of time prescribed by the regulations.

(2) An applicant for a motorized snow vehicle operator's licence shall submit to such examinations as are prescribed by the regulations. 1974, c. 113, s. 9. Examinations

**10.** The provisions of the *Highway Traffic Act*, except Part XI, and of the *Motor Vehicle Accident Claims Act* do not apply to a motorized snow vehicle or to the driving thereof. 1974, c. 113, s. 10. Application of R.S.O. 1980, cc. 198, 298

**11.—**(1) No person shall drive a motorized snow vehicle upon a highway or public trail unless he is insured under a motor vehicle liability policy in accordance with the *Insurance Act*, and the owner of a motorized snow vehicle shall not permit any person to drive the vehicle upon a highway or public trail unless the driver is so insured. Insurance R.S.O. 1980, c. 218

(2) The driver of a motorized snow vehicle who drives or permits the driving of the motorized snow vehicle on a highway or public trail shall, upon the request of a police officer, constable or conservation officer, produce evidence that the driver thereof is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Production of evidence of insurance

(3) Every driver of a motorized snow vehicle who fails to produce evidence under subsection (2) when requested to do so or within a reasonable time of such request is guilty of an offence and on conviction is liable to a fine of not more than \$500. Offence for failure to produce evidence

(4) Every driver of a motorized snow vehicle who produces false evidence when he is required to produce evidence under subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$500. 1974, c. 113, s. 11. Offence for producing false evidence

**12.—**(1) Every person in charge of a motorized snow vehicle who is directly or indirectly involved in a collision shall, if the collision results in injury to any person or in damage to property apparently exceeding \$100, report the collision forthwith to the nearest provincial or municipal police officer and furnish him with information in respect of, Reporting of collision

(a) the names and addresses of the persons involved;

(b) the date and location of the occurrence; and

(c) the circumstances under which the collision occurred.

Disposition  
of  
report

(2) A police officer receiving a report of a collision under subsection (1) shall forward the report to the Registrar of Motor Vehicles within ten days of receiving it. 1974, c. 113, s. 12.

Speed  
limit

**13.**—(1) No person shall drive a motorized snow vehicle at a greater rate of speed than,

(a) 20 kilometres per hour,

R.S.O. 1980,  
c. 198

(i) on a highway where the speed limit established pursuant to the *Highway Traffic Act* is 50 kilometres per hour or less, or

(ii) in any public park or exhibition grounds; or

(b) 50 kilometres per hour,

(i) on any highway which is open to motor vehicle traffic, where the speed limit established pursuant to the *Highway Traffic Act* is greater than 50 kilometres per hour, or

(ii) on a public trail. 1977, c. 20, s. 1.

Municipality  
may prescribe  
different  
rate of  
speed

(2) The council of a municipality may by by-law prescribe,

(a) a lower rate of speed for motorized snow vehicles upon any highway or part thereof under its jurisdiction; and

(b) a higher or lower rate of speed for motorized snow vehicles upon a public trail, public park or exhibition ground under its jurisdiction,

than is prescribed in subsection (1).

Lieutenant  
Governor in  
Council may  
prescribe  
different  
rate of  
speed

(3) The Lieutenant Governor in Council may by regulation prescribe a higher or lower rate of speed upon any public trail or any part thereof, public park or exhibition ground not under the jurisdiction of a municipality, than is prescribed in subsection (1).

By-law  
effective

(4) No by-law passed under subsection (2) or regulation made pursuant to subsection (3) becomes effective until signs are erected in accordance with the regulations. 1974, c. 113, s. 13 (2-4).

Careless  
driving

**14.** Every person is guilty of the offence of driving carelessly who drives a motorized snow vehicle without due care and attention or without reasonable consideration for other persons. 1975 (2nd Sess.), c. 15, s. 2.



**15.**—(1) Subject to subsection (2), every driver of a motorized snow vehicle shall carry his driver's licence or motorized snow vehicle operator's licence with him at all times while he is operating a motorized snow vehicle and shall produce it when demanded by a police officer, constable or conservation officer. Driver to carry licence

(2) A person shall not be required to carry his driver's licence or motorized snow vehicle operator's licence with him while operating a motorized snow vehicle on lands occupied by him. Exception

(3) Every person who is unable or refuses to produce his licence in accordance with subsection (1), when requested by a police officer, constable or conservation officer, shall identify himself by giving his correct name and address to the police officer, constable or conservation officer. Driver to identify self

(4) Upon the request of the owner or occupier of land upon which a person is operating a motorized snow vehicle, the person operating the motorized snow vehicle shall stop and identify himself by giving his correct name and address. Stopping on request

(5) Every police officer, constable or conservation officer, who, on reasonable and probable grounds, believes that a contravention of subsection (3) or (4) has been committed, may arrest without warrant any person whom the police officer, constable or conservation officer, on reasonable and probable grounds, believes has committed the contravention. 1974, c. 113, s. 14. Constable may arrest without warrant

**16.**—(1) No person shall drive a motorized snow vehicle unless it is equipped with a muffler in good working order and in constant operation and no person shall drive a motorized snow vehicle which has a muffler cut-out, straight exhaust, gutted muffler, hollywood muffler, by-pass or similar device upon the motorized snow vehicle. Muffler in working order

(2) No person shall drive or permit to be driven any motorized snow vehicle upon which any component or device, which was required under the provisions of the *Motor Vehicle Safety Act* (Canada) at the time that the motorized snow vehicle was manufactured or imported into Canada, has been removed, modified or rendered inoperative. Removing or modifying any component  
R.S.C. 1970, c. 26 (1st Supp.)

(3) Subsections (1) and (2) do not apply to a motorized snow vehicle while it is driven in a racing area sanctioned as such by the council of the local municipality within which the racing area is located. 1974, c. 113, s. 15. Exception in racing area

Towing by  
means of  
a rigid tow  
bar

**17.**—(1) No person shall drive a motorized snow vehicle which is towing a cutter, toboggan, sled or similar conveyance except by means of a rigid tow bar.

Towing on  
serviced  
roadway  
prohibited

(2) No person shall drive a motorized snow vehicle which is towing a person or conveyance on a serviced roadway except to cross the serviced roadway at an angle of approximately 90 degrees to the direction of the serviced roadway.

Exception  
for  
unditching,  
etc.

(3) This section does not apply to a person while he is driving a motorized snow vehicle for the sole purpose of unditching a stuck vehicle or conveyance or under an emergency rescue situation or while he is operating trail maintenance equipment. 1974, c. 113, s. 16.

Driver  
shall  
wear  
helmet

**18.** No person shall drive a motorized snow vehicle or ride on a motorized snow vehicle or on a cutter, toboggan, sled or similar conveyance towed by a motorized snow vehicle on a serviced roadway or public trail unless he is wearing a helmet that complies with the regulations. 1974, c. 113, s. 17.

Vehicle  
shall  
bear  
National  
Safety  
Mark

R.S.C. 1970,  
c. 26  
(1st Supp.)

**19.**—(1) No person who deals in motorized snow vehicles or cutters designed to be drawn by motorized snow vehicles shall sell or offer to sell a new motorized snow vehicle or cutter manufactured after the date this section comes into force that does not conform to the standards required under the *Motor Vehicle Safety Act* (Canada), or that does not bear the National Safety Mark referred to therein.

Penalty

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on conviction is liable to a fine of not more than \$500. 1974, c. 113, s. 18.

Occupier's  
duty of  
care

**20.** An occupier of land owes no duty of care toward a person who is driving or riding on a motorized snow vehicle or being towed by a motorized snow vehicle upon the land and who is a trespasser or licensee except the duty to not create a danger with the deliberate intent of doing harm or damage to the trespasser or licensee or do a wilful act with reckless disregard of the presence of the trespasser or licensee. 1974, c. 113, s. 19.

Liability  
of owner

**21.**—(1) Where the driver of a motorized snow vehicle who is not the owner thereof is liable for damages respecting damage or injury arising out of the operation by him of the motorized snow vehicle with the consent of the owner, the owner is jointly and severally liable.

(2) Where a motorized snow vehicle is leased, the consent of the lessee of the motorized snow vehicle to the operation or possession thereof by some person other than the lessee shall, for the purposes of subsection (1), be deemed to be the consent of the owner of the motorized snow vehicle. 1974, c. 113, s. 20.

**22.** The owner of a motorized snow vehicle shall incur the penalties provided for any contravention of this Act or the regulations or of any municipal by-law regulating, governing or prohibiting the operation of motorized snow vehicles, unless at the time of the contravention the motorized snow vehicle was in the possession of some person other than the owner without the owner's consent, and the driver or operator of the motorized snow vehicle, not being the owner, shall also incur the penalties provided for any such contravention. 1974, c. 113, s. 21.

**23.—**(1) Every person who knowingly or unknowingly trespasses on land while operating a motorized snow vehicle is guilty of an offence and on conviction is liable to a fine not exceeding \$500.

(2) Subject to subsection (3), liability under subsection (1) is not affected by reason only that the accused was given permission to be on the land, unless the permission is in writing signed by the owner or occupier of the land.

(3) Subsection (2) does not apply where the land is unpatented Crown land.

(4) For the purpose of subsection (2), written permission given to a club or association shall be deemed to have been given to each member thereof.

(5) For the purpose of subsection (2), written permission for the public in general given to a club or association that is in receipt of public money shall be deemed to have been given to the public in general.

(6) No action or prosecution for a contravention of subsection (1) shall be commenced except at the request of the owner or occupier of the land or his authorized agent. 1974, c. 113, s. 22.

**24.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction where a fine for the contravention is not otherwise provided for herein is liable to a fine not exceeding \$300. 1974, c. 113, s. 23.

Regulations

**25.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rules for driving motorized snow vehicles upon a highway or any place other than a highway and requiring compliance therewith by every person driving a motorized snow vehicle;
- (b) requiring, prohibiting or regulating the use of any equipment, ornament, device, accessory, material or component in or on any motorized snow vehicle or used in connection therewith and prescribing the specifications therefor;
- (c) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Ministry pursuant to this Act or the regulations, or any statement containing information from the records of the Ministry, and prescribing the amount of such fees;
- (d) prescribing the term of validity of motorized snow vehicle operators' licences;
- (e) prescribing conditions that shall apply to motorized snow vehicle operators' licences;
- (f) prescribing the standards and specifications of helmets referred to in section 18 and providing for and requiring the identification and marking of such helmets;
- (g) providing for the erection of signs on any highway or public trail and prescribing the types of signs and the location of each type of sign;
- (h) designating classes of motorized snow vehicles which are exempt from the provisions of sections 2 and 8;
- (i) designating areas within Ontario to which any provisions of this Act or the regulations do not apply;
- (j) designating classes of persons to whom any provisions of this Act and the regulations do not apply;
- (k) respecting tests to determine the knowledge and competence of applicants for motorized snow vehicle operators' licences; and



- (1) prescribing standards required to obtain and maintain a motorized snow vehicle operator's licence.
- (2) Any regulation made under clause (1) (b) or (f) may adopt by <sup>Regulation may adopt by reference</sup> reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is adopted.
- (3) Every driver of a motorized snow vehicle shall obey the <sup>Driver shall obey signs</sup> instructions and directions indicated on any sign erected pursuant to regulations made under clause (1) (g). 1974, c. 113, s. 24.



## CHAPTER 302

## Municipal Act

## 1. In this Act,

Interpre-  
tation

1. "arbitration" means an arbitration under this Act;
2. "assessment commissioner", in relation to a municipality, means the assessment commissioner appointed under the *Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1980, c. 31
3. "Assessment Review Court" means the Assessment Review Court under the *Assessment Review Court Act*; R.S.O. 1980, c. 32
4. "assessor" means the assessment commissioner and anyone acting under his authority;
5. "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over or across which a highway passes;
6. "city", "town", "village", "township" and "county" respectively mean a city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act;
7. "debt" includes obligation for the payment of money;
8. "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election; when applied to voting on a money by-law, means the persons entitled to vote on the by-law; and when applied to voting on any other by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors;
9. "highway" means a common and public highway, and includes a street and a bridge forming part of

a highway or on, over or across which a highway passes;

10. "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water;
11. "local municipality" means a city, town, village and township;
12. "member", referring to a member of a council, includes the head of the council and a member of a board of control;
13. "Minister" means the Minister of Intergovernmental Affairs, except that in sections 217, 298, 306 and 316 "Minister" means the Minister of Housing;
14. "Ministry" means the Ministry of Intergovernmental Affairs;
15. "money by-law" means a by-law for contracting a debt or obligation or for borrowing money other than a by-law passed under section 189;
16. "Municipal Board" means the Ontario Municipal Board;
17. "municipal electors" means the persons entitled to vote at a municipal election;
18. "municipality" means a locality the inhabitants of which are incorporated;
19. "population" means the population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor, whichever is the latest, or by such means as the Municipal Board may direct;
20. "prescribed" means prescribed by or under the authority of this Act;
21. "published" means published in a daily or weekly newspaper that, in the opinion of the clerk of the



municipality, has such circulation within the municipality as to provide reasonable notice to those affected thereby, and "publication" has a corresponding meaning;

22. "regular election" means an election required to be held biennially under section 10 of the *Municipal Elections Act*; R.S.O. 1980, c. 308
23. "separated town" means a town separated for municipal purposes from the county in which it is situate;
24. "sewage" includes drainage, storm water, commercial wastes and industrial wastes;
25. "Supreme Court" means the Supreme Court of Ontario;
26. "township" includes a union of townships and a municipality composed of two or more townships;
27. "two-thirds vote" means the affirmative vote of two-thirds of the members of a council present at a meeting thereof;
28. "unorganized territory" means that part of Ontario without county organization;
29. "urban municipality" means a city, town and village. R.S.O. 1970, c. 284, s. 1; 1972, c. 121, s. 1; 1979, c. 63, s. 1.

**2.—**(1) Where under this Act evidence is taken orally before a special examiner or a judge, he may direct that the evidence be taken in shorthand by a stenographic reporter. Evidence may be taken in shorthand

(2) The fees of the stenographic reporter including those for the transcribing of his notes shall be paid by the party on whose behalf the evidence is taken, and shall form part of the costs of the proceedings in which the evidence is taken. R.S.O. 1970, c. 284, s. 2. Fees of reporter, how paid

**3.** Where registration in a land registry office is prescribed or provided for by this Act, it means, where the *Land Titles Act* is applicable, registration in the office of the proper land registrar of the land titles division in which the land is situate. R.S.O. 1970, c. 284, s. 3. Registration in land titles division R.S.O. 1980, c. 230

When  
occupant  
deemed to  
be owner

**4.** A person in the actual occupation of land,

(a) under an agreement with the owner for the purchase of it; or

R.S.C. 1970,  
c. V-4

(b) sold by the Director in accordance with the *Veterans' Land Act* (Canada),

shall be deemed to be the owner, and the unpaid purchase money or balance, as the case may be, shall be deemed to be an encumbrance on the land. R.S.O. 1970, c. 284, s. 4.

Power to  
acquire  
includes  
expropriation

**5.** Where power to acquire land is conferred upon a municipal corporation by this or any other Act, unless otherwise expressly provided, it includes the power to acquire by purchase or otherwise and to enter on and expropriate. R.S.O. 1970, c. 284, s. 5.

Special  
Acts not  
affected

**6.** Except where otherwise expressly provided, this Act does not affect the provisions of any special Act relating to a particular municipality. R.S.O. 1970, c. 284, s. 6.

Inhabitants  
of municipi-  
palities to  
be bodies  
corporate

**7.** The inhabitants of every county, city, town, village and township are a body corporate for the purposes of this Act. R.S.O. 1970, c. 284, s. 7.

Names of  
municipal  
corporations

**8.** The name of the body corporate is "*The Corporation of the County [United Counties, City, Town, Village, Township (as the case may be)] of . . . . . (naming the municipality)*". R.S.O. 1970, c. 284, s. 8.

Council to  
exercise  
corporate  
powers

**9.** The powers of a municipal corporation shall be exercised by its council. R.S.O. 1970, c. 284, s. 9.

## PART 1

### FORMATION, ERECTION, ALTERATION OF BOUNDARIES, AND DISSOLUTION OF MUNICIPALITIES, ETC.

#### INCORPORATIONS AND ERECTIONS

Interpre-  
tation

**10.—(1)** In this section, "inhabitant" means a permanent resident or a temporary resident having a permanent dwelling within the locality. R.S.O. 1970, c. 284, s. 10 (1).

Improvement  
districts

(2) The Municipal Board, upon the application of the Ministry or of not less than thirty inhabitants of a locality having a population of not less than fifty, may

incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district. R.S.O. 1970, c. 284, s. 10 (2); 1972, c. 1, s. 1.

(3) The Municipal Board, upon the application of not <sup>Townships</sup> less than seventy-five inhabitants of a locality having a population of not less than 1,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a township or union of townships.

(4) The Municipal Board, upon the application of not <sup>Villages</sup> less than seventy-five inhabitants of a locality having a population of not less than 500, may incorporate the inhabitants of the locality or a larger or smaller locality as a village.

(5) The Municipal Board, upon the application of the <sup>Idem</sup> trustees of a police village having a population of not less than 500, may incorporate the inhabitants of the locality comprising the police village as a village.

(6) The Municipal Board, upon the application of not <sup>Towns</sup> less than seventy-five inhabitants of a locality having a population of not less than 2,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a town.

(7) An application may be made under subsection (2), (3), <sup>Locality interpreted</sup> (4) or (6) with respect to a locality that includes, but is not composed of, a police village or part thereof, but no such application may be made with respect to a locality that includes an urban municipality or any part thereof. R.S.O. 1970, c. 284, s. 10 (3-7).

(8) No person is qualified to be an applicant under this <sup>Qualifications of applicants</sup> section unless he is a British subject of the full age of eighteen years. R.S.O. 1970, c. 284, s. 10 (8); 1971, c. 98, s. 4, Sched., par. 23.

(9) The Municipal Board, before making an order under <sup>Public hearing</sup> this section, shall hold a public hearing in or adjacent to the locality affected, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1970, c. 284, s. 10 (9).

**11.**—(1) Upon the application of an improvement dis- <sup>Erection of improvement district, as village or township</sup> trict having a population of not less than 500, the Municipal

Board may erect the improvement district into a village or a township. R.S.O. 1970, c. 284, s. 11 (1); 1974, c. 136, s. 1 (1).

as town

(2) Upon the application of an improvement district having a population of not less than 2,000, the Municipal Board may erect the improvement district into a town.

Erection of  
village or  
township  
into town

(3) Upon the application of a village or township having a population of not less than 2,000, the Municipal Board may erect the village or township into a town.

Erection of  
village,  
town or  
township  
into city

(4) Upon the application,

(a) of a village or town having a population of not less than 15,000; or

(b) of a township having a population of not less than 25,000,

the Municipal Board may erect the village, town or township into a city.

Application  
to be  
authorized  
by by-law

(5) An application by an improvement district, village, town or township under this section shall be authorized by by-law of the board of trustees of the improvement district or the council of the village, town or township, as the case may be, and notice of the application shall be published in such manner as the Municipal Board may direct.

Enlargement  
of area of  
city or  
town to  
be erected

(6) An application for the erection of a city or town under this section may include an application for the annexation of any locality adjoining the applicant municipality and, where the Municipal Board considers it desirable that the adjoining locality, or any greater or smaller area, be included in the city or town, the Municipal Board may annex the locality or any greater or smaller area to the city or town in the order erecting it and, where the locality to be annexed forms part of another municipality or municipalities, detach it therefrom.

Idem

(7) Where it is proposed that an adjoining locality be annexed to the city or town to be erected, the application for the erection shall so state and shall designate the locality to be annexed, and the provisions of section 14 shall apply with respect to the part of the application, and the order thereon, dealing with the proposed annexation. R.S.O. 1970, c. 284, s. 11 (3-8).



**12.**—(1) Where a municipality is incorporated or erected, the order of the Municipal Board shall direct the name that the municipality shall bear, its boundaries, and the date when the incorporation or erection shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipality.

(2) Where an improvement district, village, town or township is incorporated out of parts of two or more counties, it shall be annexed to and form part of that one of the counties which the Municipal Board directs.

(3) Without restricting the generality of subsection (1), the Municipal Board, by any order made upon an application for incorporation or erection or by any subsequent order or orders, may exercise all the powers conferred on it in the case of an amalgamation or annexation by subsections 14 (8), (11), (16) and (18), the provisions of which subsections apply with necessary modifications.

(4) The order of the Municipal Board incorporating or erecting a local municipality is conclusive evidence that all conditions precedent to the making of the order have been complied with and that the local municipality has been duly incorporated or erected in accordance with this Act, and such order shall be registered by the municipality affected as required by section 63 of the *Registry Act* as soon as practicable after the effective date of the order.

Name,  
boundaries,  
etc.

Additional  
powers of  
Board

Order of  
Board  
conclusive

R.S.O. 1980,  
c. 445

R.S.O. 1970, c. 284, s. 12.

#### WARDS

**13.**—(1) When a municipality is incorporated or erected, the Municipal Board shall divide a city and may divide any other local municipality into wards, and shall designate the name or number each ward shall bear.

(2) Upon the application of the council of a local municipality for the division or a new division of the municipality into wards, the Municipal Board, notwithstanding any general or special Act, may divide or redivide the municipality into wards in the manner provided in subsection (1) and shall declare the date when the division or redivision shall take effect.

(3) A petition of 75 electors in a municipality having not more than 5,000 electors and of 150 electors in a municipality having more than 5,000 electors may be presented to the council of any local municipality requesting

Wards

Application  
by council

Petition of  
electors

the council to make an application to the Municipal Board to divide or redivide the municipality into wards, and, if the council refuses or neglects to make the application within one month after the receipt by the clerk of the petition, the petitioners or any of them may apply to the Municipal Board for the division or a new division of the municipality into wards, and the Municipal Board, notwithstanding any general or special Act, may divide or redivide the municipality into wards in the manner provided in subsection (1) and shall declare the date when the division or redivision shall take effect. R.S.O. 1970, c. 284, s. 13 (1-3).

Composition  
of local  
boards

R.S.O. 1980,  
c. 303

(4) Where a municipality is divided or redivided into wards under this section, the Municipal Board, notwithstanding any general or special Act, may make all such provisions for the composition of any local board as defined in the *Municipal Affairs Act* and for the number of members to be elected to any such local board from each ward as the Municipal Board considers necessary. R.S.O. 1970, c. 284, s. 13 (4); 1972, c. 1, s. 104 (6).

Dissolution  
of police  
villages

(5) Where a township containing one or more police villages is hereafter divided into wards under this section and the boundaries of the wards are such that the police village is within the boundaries of a ward or, where there is more than one police village, each of such police villages is within the boundaries of a different ward, each such police village is dissolved as of the date when the division into wards takes effect, and the provisions of section 25 apply with necessary modifications.

O.M.B.  
hearing

(6) The Municipal Board, before making any order for the division or redivision into wards of a township containing one or more police villages, shall hold a public hearing in the municipality, after such notice thereof has been given as the Municipal Board may direct, for the purpose of inquiring into the merits of the application and the hearing of any objections that any persons may desire to bring to the attention of the Municipal Board.

Power of  
O.M.B. re  
composition  
of council

(7) Notwithstanding subsections 34 (1), (4), (6), (7), (8), (9) and (10) or any special Act, where a township containing one or more police villages is hereafter divided or redivided into wards, the Municipal Board may, in any order dividing or redividing the township into wards or by subsequent order or orders, make all such provisions for the composition of the council of the township as it may consider necessary or desirable, provided that there shall be a reeve to be elected by general vote and at least one councillor to be elected for each ward and one or more deputy reeves to be

elected by general vote or appointed by the council from its own members.

(8) A petition of 100 electors of a ward in a township in which a police village was dissolved under subsection (5) may be presented to the council of the township for the exercise of any of its powers to provide works or services in the ward of the kind that may be provided to a police village under section 342 and that may be lawfully provided within a defined area in the township and the whole cost of which may be charged to such area, and, if the council,

Petition  
for works  
or services  
in wards

- (a) where no approval of any other authority is required, refuses or neglects to exercise such powers within ninety days; or
- (b) where approval of some other authority is required, does not make the necessary application for such approval within sixty days; or
- (c) where the required approval has been obtained, does not exercise its powers within thirty days of the receipt of such approval,

the petitioners or any of them may appeal to the Municipal Board, and the Municipal Board shall hear the appeal, after such notice has been given as the Municipal Board may direct, and may dismiss the appeal or direct the council to pass a by-law or by-laws in accordance with its order. R.S.O. 1970, c. 284, s. 13 (5-8).

#### ALTERATION OF BOUNDARIES

**14.**—(1) In this section, “local board” means a local board as defined in the *Municipal Affairs Act*. R.S.O. 1970, c. 284, s. 14 (1); 1972, c. 1, s. 104 (6).

Interpre-  
tation  
R.S.O. 1980,  
c. 303

(2) Upon the application of any municipality authorized by by-law of the council thereof or upon the application of the Minister authorized by the Lieutenant Governor in Council, or in respect of clause (d) upon the application of at least twenty-five inhabitants, being British subjects of the full age of eighteen years, the Municipal Board may by order on such terms as it may consider expedient,

Amalgama-  
tions and  
annexations

- (a) amalgamate the municipality with any other municipality or municipalities;

- (b) annex the whole or any part or parts of the municipality to any other municipality or municipalities;
- (c) annex the whole or any part or parts of any other municipality or municipalities to the municipality; or
- (d) annex any locality that does not form part of any municipality to the municipality,

and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, or locality not forming part of a municipality, in which the area or areas is or are located, is or are specified in the application. R.S.O. 1970, c. 284, s. 14 (2); 1971, c. 98, s. 4, Sched., par. 23.

Assent of  
electors

(3) The Municipal Board, before proceeding with the application of the council of any municipality under subsection (2), may require that the by-law of the council shall receive the assent of the electors of such municipality who are entitled to vote on money by-laws.

Public  
hearing to  
be held  
by Board

(4) The Municipal Board, before making any order under subsection (2), shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Annexation  
of remaining  
part of  
municipality  
following  
order

(5) If it appears that by reason of an application made under subsection (2) a municipality would, if an order were made granting the application, be left, in regard to size, assets, location or otherwise, in such condition that it would be desirable to annex the whole or part or parts of the municipality remaining after such order to some other contiguous municipality or municipalities, the Municipal Board may, after notice to such contiguous municipality or municipalities and a public hearing, order,

- (a) that the whole or part or parts of the municipality so remaining be annexed to such contiguous municipality or municipalities; and
- (b) in the event that the whole of the municipality so remaining is annexed to some other municipality or municipalities, that the municipality is dissolved.



(6) Where in a municipality affected by a proposed annexation or amalgamation an official plan approved under the *Planning Act* or a predecessor thereof is in effect and a by-law of a municipality is passed to authorize an application for an order of the Municipal Board under this section, and a certified copy of the by-law has been sent to the Minister of Housing and to the planning board or planning boards having jurisdiction in any municipality or area affected by the application, the by-law shall not be deemed to be or be held invalid on the ground that it conflicts with the official plan.

Effect of  
official  
plan  
R.S.O. 1980,  
c. 379

(7) If a municipality to which the whole or part of another municipality is annexed or a municipality created by an amalgamation under this section has the requisite population, it may by such order be erected by the Municipal Board into a city or town bearing such name as the Board may direct.

City or  
town may  
be erected

(8) The Municipal Board may order a division or re-division of a municipality into wards if, in the opinion of the Board, the annexation or amalgamation renders such division or redivision necessary or desirable.

Division  
into  
wards

(9) If a petition signed by at least 150 electors of a town, village or township, or 500 electors of a city, praying that the whole or any part of the city, town, village or township may be annexed to an adjacent municipality on such terms as may be stated in the petition, is presented to the council of the city, town, village or township, the council shall, within four weeks after the presentation of the petition or within such longer period as the Municipal Board may fix, submit to the electors of the city, town, village or township for their assent thereto a by-law providing for such annexation on the terms mentioned in the petition, and if the by-law receives the assent of the electors the council shall forthwith make application for such annexation under subsection (2).

By-law  
to be  
submitted  
on petition

(10) In subsection (9), "electors" means electors who are entitled to vote on money by-laws. R.S.O. 1970, c. 284, s. 14 (3-10).

Interpre-  
tation

(11) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders,

Further  
powers of  
Municipal  
Board

- (a) make all such adjustments of assets and liabilities as between the municipalities, including counties,

affected by any such order as may be agreed upon or, in default of agreement, as the Board may consider equitable;

- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board may consider equitable;
- (c) define special areas within the municipality as enlarged by such annexation or resulting from such amalgamation, having regard to the areas annexed thereto or amalgamated therein, and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which the liabilities of such municipality shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of the *Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations referred to in clauses (a), (b) and (c), or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting the report or varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;
- (e) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;
- (f) subject to section 20, require the transfer of real property from either municipality or a local board thereof to the other municipality or a local board thereof, and take any such transfer into consideration in the adjustments of assets and liabilities;
- (g) vest real property of either municipality or a local board thereof in the other municipality or a local

board thereof and take any such vesting into consideration in the adjustments of assets and liabilities ;

- (h) make all such provisions for the composition of councils and local boards, the fixing of days for nominations, either before or subsequent to the day on which the annexation or amalgamation becomes effective, the appointment of returning officers, the holding of elections, the qualifications of candidates and electors, the preparation of first polling lists and assessment rolls, the fixing of days for first meetings of councils and local boards, and for such other matters as it may consider necessary to provide for the effective administration of the enlarged or amalgamated municipality or of any local board thereof ;
- (i) direct the name that shall be borne by any municipality affected by any such order ;
- (j) where the holder of an operating licence under the *Public Vehicles Act* is adversely affected by the annexation or amalgamation, R.S.O. 1980,  
c. 425
  - (i) authorize the municipality or municipalities to pay to the holder of the licence in respect of such adverse effect the amount of compensation agreed upon, or
  - (ii) direct what compensation, if any, shall be paid by the municipality or municipalities to the holder of the licence in respect of such adverse effect ;
- (k) where by reason of any annexation order made under this section the taxable assessment of a local municipality is reduced by not less than 15 per cent as shown by the last revised assessment roll prior to the effective date of such annexation, authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable ;

- (l) where by reason of annexation orders made under this section within any three-year period the taxable assessment of a local municipality is reduced by not less than a total of 15 per cent as shown by the last revised assessment rolls prior to the effective date of each of such annexations, and no order has been made under clause (k), authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;
- (m) where by reason of any annexation or amalgamation order made under this section a county will be deprived of not less than 15 per cent of its equalized assessment, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Board or, failing agreement, as the Board considers equitable;
- (n) where by reason of annexation or amalgamation orders made under this section within any three-year period a county will be deprived of not less than a total of 15 per cent of what its equalized assessment would have been except for such annexations or amalgamations, and no order has been made under clause (m), authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality;



pality and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;

- (o) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the amalgamation or annexation provided for in such order;
- (p) after a public hearing, if the Board is of the opinion that the last revised assessment of an annexed area or any portion thereof is on a higher basis than the last revised assessment of the annexing municipality and is therefore not equitable therewith, direct what percentage of the rates for all purposes to be levied for taxation in the annexing municipality shall be levied in the annexed area or any portion thereof, provided that an order under this clause may be made only in respect of the rates to be levied in either the first or the first and second annual levies after the date of the annexation. R.S.O. 1970, c. 284, s. 14 (11); 1972, c. 121, s. 2.

(12) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders, define urban services and cost of urban services and establish and, after establishment, alter one or more urban service areas within the municipality as enlarged by an annexation or resulting from an amalgamation and determine the manner in which and upon what lands or rateable property the cost of providing urban services is to be levied and raised by the municipality, and determine the manner in which and upon what lands or rateable property the liabilities, in respect of urban services of any of the municipalities as they existed prior to the annexation or amalgamation or in respect of urban services in whole or in part within an urban service area, shall be discharged by the imposition of rates in an urban service area.

Urban  
service  
areas

(13) An order under subsection (12) does not affect any exemption or partial exemption from taxation or rates or provision therefor in any general or special Act.

Effect of  
order on  
exemptions

(14) Section 20 of the *Assessment Act* applies to lands situated in an urban service area with respect to taxation or rates levied under or by virtue of an order made under this subsection as if the urban service area were the whole municipality.

Application of  
R.S.O. 1980,  
c. 31, s. 20

Determina-  
tion of  
compensating  
grants by  
Board

(15) Where compensating grants are to be determined by the Municipal Board under clause (11) (*k*) or (*m*), the determination shall not be made until after one complete fiscal year of the municipalities has elapsed following the date of the annexation or amalgamation.

Municipal  
Board may  
make rules,  
etc.

(16) The Municipal Board may make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this section as it considers necessary or desirable in connection with any such annexation or amalgamation and every such rule, regulation, order and direction is valid and binding upon all municipalities and local boards interested in or affected thereby.

No order if  
municipality  
in default

(17) No order of annexation or amalgamation of any municipality or any part thereof shall be made under this section at a time when the municipality is in default in payment of any interest or principal in respect of its debentures.

Provisions  
of this  
section to  
prevail

(18) The powers conferred upon the Municipal Board by this section may be exercised at any time or times notwithstanding any other provision in this Act or any other special or general Act and, in the event of any conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail.

Decision  
granting  
annexation  
or amal-  
gamation  
R.S.O. 1980,  
c. 347

(19) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision of the Municipal Board providing for an annexation or amalgamation or refusing an application for an annexation or amalgamation and such decision,

(a) shall be in writing;

(b) shall identify the area to be annexed or amalgamated; and

(c) shall fix the date when the annexation or amalgamation shall be effective,

and a copy of the decision shall be sent by the secretary of the Board by registered mail to the clerk of every municipality, including every county, affected by the decision, and to such other persons as the Board may direct.

Notice of  
objection

(20) No order shall be made under subsection (2) until the expiration of twenty-eight days after the mailing of the

copies of the decision under subsection (19) and, within such period of twenty-eight days, notice of objection to the decision may be filed with the Clerk of the Executive Council.

(21) For the purposes of subsection (20), the notice of objection means an objection in writing, giving reasons therefor, that, according to the certificate of the clerk of the municipality, is signed by not less than 10 per cent of the persons qualified to vote on money by-laws who are resident in, <sup>Idem</sup>

(a) the municipality that has applied for the order;  
or

(b) the area that by the decision is to be annexed to or amalgamated with the applicant municipality,

and includes, where there are no persons qualified to vote on money by-laws who are resident in the area to be annexed, an objection in writing, giving reasons therefor, authorized by by-law of the council of the municipality in which such area is situated.

(22) An objection filed under subsection (20) may be withdrawn by the filing with the Clerk of the Executive Council, at any time before the Lieutenant Governor in Council has made an order under subsection (23), of a notice in writing of such withdrawal signed by one-third or more of the objectors provided that the then remaining objectors constitute not more than 10 per cent of the persons who were entitled to sign the objection under subsection (21), or, where the objection was authorized by the council of a municipality, of a certified copy of a by-law repealing the authorizing by-law. <sup>Withdrawal of objection</sup>

(23) Where an objection is filed in accordance with subsections (20) and (21) and is not withdrawn, the Lieutenant Governor in Council may by order, <sup>Powers of Lieutenant Governor in Council</sup>

(a) confirm the decision of the Municipal Board; or

(b) require the Municipal Board to hold a new public hearing of the annexation or amalgamation application before such members of the Board as the Lieutenant Governor in Council may designate.

(24) The decision of the Municipal Board, <sup>Finality of decision</sup>

(a) where no objection is filed in accordance with subsections (20) and (21) or where the objections

thereto are withdrawn in accordance with subsection (22); or

(b) when confirmed by the Lieutenant Governor in Council; or

(c) after a new public hearing ordered by the Lieutenant Governor in Council,

is final and not open to appeal, and the Board may thereupon make an order under subsection (2).

Application of  
R.S.O. 1980,  
c. 347, s. 95

(25) Nothing in this section affects the application of section 95 of the *Ontario Municipal Board Act*.

Adding  
parts to  
municipality  
in another  
county or  
territorial  
district

(26) Where part of a local municipality becomes part of a local municipality in another county or territorial district, it thereafter forms part of that county or territorial district except for the purpose of representation in the Assembly.

Registration  
of order  
under  
R.S.O. 1980,  
c. 445, s. 63

(27) When an order is made under subsection (2), it shall be registered as required by section 63 of the *Registry Act* as soon as practicable after the effective date of the order,

(a) where the order is made upon the application of the Minister;

(b) where the order is for annexation, by the municipality to which territory has been annexed; and

(c) where the order is for amalgamation, by the new municipality. R.S.O. 1970, c. 284, s. 14 (12-27).

Alteration  
of areas

**15.**—(1) Upon the application of a municipality to alter, enlarge, reduce or dissolve any fire, police, sewage, water or transportation area or local improvement area or street lighting area created under this or any other Act or any other area created for any municipal purpose, or to amalgamate any such area with any other area of a similar nature in the municipality or to divide any such area or areas into new areas, the Municipal Board may, on such terms as it considers expedient, by order make such alteration, enlargement, reduction, division, dissolution or amalgamation.

Public  
hearing

(2) Unless under all the circumstances affecting the matter the Municipal Board considers unnecessary and by order



dispenses with a public hearing, the Board shall, before making an order under this section, hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

(3) The provisions of section 14, except subsections (4) and (19) to (25), apply with necessary modifications to an application under this section. Application of s. 14 R.S.O. 1970, c. 284, s. 15.

**16.**—(1) A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities. Union of townships

(2) The Lieutenant Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township in the county into a union of townships. Annexation of townships in unorganized territory to county

(3) Upon the application of a union of townships, authorized by by-law of the council thereof, or upon the application of at least seventy-five inhabitants of one of the townships included in a union of townships, the Municipal Board may by order on such terms as it considers expedient separate the township in respect of which the application is made from the union of townships and, Separation of township from union

(a) incorporate the inhabitants of the separated township as a new township; or

(b) erect the township with an adjoining township into a union of townships.

(4) Where a township is separated from a union of townships, the order of the Municipal Board shall direct the name that the remainder of the union shall bear, the name that the new township or union shall bear, the boundaries of the municipalities, and the date when the order shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipalities. Names, boundaries, etc.

(5) The provisions of section 14, except subsections (19) to (25), apply with necessary modifications to an application under subsection (3). Application of s. 14 R.S.O. 1970, c. 284, s. 16.

MATTERS CONSEQUENT ON INCORPORATIONS,  
ERECTIONS, ALTERATIONS OF BOUNDARIES, ETC.

By-laws to remain in force on incorporations, etc.

**17.**—(1) The incorporation of a locality as an improvement district, township, village or town, or the erection of an improvement district into a village, township or town, or the erection of a village or township into a town, or the erection of a village, town or township into a city, or the separation of a township from a union of townships, does not affect the by-laws then in force in the locality or municipality, and they remain in force in the locality or municipality until repealed by the council of the newly incorporated or erected municipality.

Idem

(2) The amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities and they remain in force in each former municipality until repealed by the council of the new municipality.

Proviso

(3) Nothing in this section authorizes the amendment or repeal of a by-law that the council by which it was passed could not lawfully amend or repeal. R.S.O. 1970, c. 284, s. 17 (1-3).

Dissolution of police village included in area erected into an urban municipality

(4) Where a township or part of a township in which a police village is situate is erected into an urban municipality, the police village or part of the police village within such township or part of a township is dissolved or detached, as the case may be, and clauses 25 (7) (*d*), (*e*), (*f*) and (*j*) and subsection 25 (8) apply with necessary modifications. R.S.O. 1970, c. 284, s. 17 (5).

By-laws in force in annexed territory

R.S.O. 1980, c. 379  
1941, c. 35

**18.** Except where otherwise ordered by the Municipal Board, where a locality or a municipality is annexed to a municipality, the by-laws of the latter municipality extend to the locality or annexed municipality and the by-laws then in force in the locality or annexed municipality cease to apply to it, except by-laws relating to highways, by-laws passed under section 39 of the *Planning Act* or a predecessor of such section or which are kept in force by subsection 13 (3) of *The Municipal Amendment Act, 1941*, and by-laws passed under section 41 of the *Planning Act*, which shall remain in force until repealed by the council of the annexing municipality, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council that passed them. R.S.O. 1970, c. 284, s. 18; 1974, c. 136, s. 2.

**19.**—(1) Where,

- (a) the whole of a municipality is annexed to another municipality;
- (b) two or more municipalities are amalgamated;
- (c) an improvement district is erected into a village, township or town;
- (d) a village or township is erected into a town; or
- (e) a village, town or township is erected into a city,

Assets, etc.,  
on  
annexations,  
amalgama-  
tions,  
erections

all the assets and liabilities of the annexed or former municipality or municipalities and its or their local boards are assets and liabilities of the annexing or new municipality and its local boards, and the annexing or new municipality and its local boards for all purposes stand in the place and stead of the annexed or former municipality or municipalities and its or their local boards.

(2) Without limiting the generality of subsection (1), the annexing or new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the annexed or former municipality or municipalities, including those for the year in which the annexation, amalgamation or erection takes place, as if such taxes had been imposed by the annexing or new municipality. R.S.O. 1970, c. 284, s. 19.

Idem

**20.**—(1) Unless otherwise ordered by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the real property belonging to the municipality from which the locality becomes or is detached and situated in the locality belongs to and is vested in the newly incorporated municipality or the annexing municipality, as the case may be, except a town hall and the land on which it is erected or which is used or enjoyed in connection with it, which shall remain the property of the municipality from which the locality becomes or is detached.

Disposition  
of real  
property,  
on incor-  
porations  
and  
annexations

(2) Unless otherwise ordered by the Municipal Board, where a township is separated from a union of townships, the real property belonging to the union of townships and situated in the separated township belongs to and is

on  
separation  
from  
union of  
townships

vested in the separated township and the remainder of the real property is the property of the remainder of the union. R.S.O. 1970, c. 284, s. 20.

Unpaid  
taxes

**21.**—(1) Except where otherwise provided by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the taxes that were imposed by the municipality from which the locality becomes or is detached before the incorporation or annexation takes effect and are unpaid at the time the incorporation or annexation takes effect belong to the newly incorporated municipality or the annexing municipality, as the case may be, and may be collected and recovered by it as if they had been imposed by it.

Idem

(2) The unpaid taxes, the right to collect and recover which is transferred to the newly incorporated municipality or the annexing municipality under subsection (1), shall be taken into consideration upon the adjustment of assets and liabilities consequent upon the incorporation or annexation. R.S.O. 1970, c. 284, s. 21.

Jurisdiction  
of old  
council on  
incorpora-  
tions, etc

**22.**—(1) Where,

- (a) a locality is incorporated as an improvement district, township, village or town;
- (b) an improvement district is erected into a village, township or town;
- (c) a village or township is erected into a town;
- (d) a village, town or township is erected into a city; or
- (e) a township is separated from a union of townships,

and the council of the new municipality is not organized until after the time of the incorporation, erection or separation, the council having authority in the locality, municipality or separated township at the time of the incorporation, erection or separation shall, until the council of the new municipality is organized, continue to have the same powers as before the incorporation, erection or separation.

Idem

(2) Where two or more municipalities are amalgamated and the council of the new municipality is not organized until after the time of the amalgamation, the council of each former municipality shall, until the council of the new



municipality is organized, continue to have the same powers with respect to its municipality as before the amalgamation. R.S.O. 1970, c. 284, s. 22.

**23.**—(1) Where a work or service coming within the provisions of the *Drainage Act* or of the *Local Improvement Act* has been undertaken by a municipality and, after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the municipality from which the land becomes or is detached may complete the work or service, and may enter upon and acquire any land lying within the new or annexing municipality necessary for the completion of such work or service, and may take all such proceedings, pass all such by-laws, make all such special and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money and do all such other acts and things as are necessary to complete the work or service and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality.

Power to proceed with local improvements upon land annexed to another municipality  
R.S.O. 1980, cc. 126, 250

(2) The municipality by which the work or service was undertaken shall be indemnified by the new municipality or the annexing municipality against all debts and liabilities incurred by it before the formation of the new municipality or the annexation for or in respect of any such work or service to the extent to which the land lying within such new or annexing municipality was specially assessed, and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

Municipality to which territory annexed to indemnify municipality undertaking work

(3) Where the land specially assessed lies wholly within the new or annexing municipality, the latter is liable for the entire debt in respect of such work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of the new or annexing municipality with certified copies of all the by-laws relating to the work or service and the rates imposed by such by-laws shall be collected by the new or annexing municipality, and the latter shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the municipality from which the land was detached against the same.

Assumption of debt where all of land specially assessed is detached

(4) Where only part of the land specially assessed lies within the new or annexing municipality, the clerk of the

Collection of special rates, etc., where only part of land specially assessed is detached

municipality from which it was detached shall furnish the clerk of the new or annexing municipality with a certified copy of the by-law imposing the special assessment, and the new or annexing municipality, in each year in which a special rate upon such lands is payable, shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the municipality from which it was detached for its share of the cost of the work or service shall be taken into account. R.S.O. 1970, c. 284, s. 23.

#### INTER-URBAN AREAS

Power to  
create  
inter-urban  
administra-  
tive areas  
R.S.O. 1980,  
cc. 303, 188

**24.**—(1) Upon the application of a municipality as defined in the *Municipal Affairs Act* for the creation of an area consisting of the applicant municipality or a part thereof and one or more other municipalities or parts thereof for the joint administration therein of education, fire protection, police protection, highways, sewers, sewage disposal, garbage disposal, public health including hospitals and hospitalization, welfare including assistance under the *General Welfare Assistance Act*, parks or any public utility as defined by the *Municipal Affairs Act*, the Municipal Board may by order on such terms as it considers expedient create such area or a greater or smaller area for any or all of such purposes. R.S.O. 1970, c. 284, s. 24 (1); 1972, c. 1, s. 104 (6).

Vote of  
electors

(2) Before proceeding with the application, the Municipal Board may require the matter to be voted upon by the electors entitled to vote on money by-laws in the area or any part thereof.

Public  
hearing to  
be held

(3) Before making an order under subsection (1), the Municipal Board shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Petition

(4) If a petition signed by at least 150 electors entitled to vote on money by-laws of any municipality other than a city or 500 such electors of a city praying that an application under subsection (1) be made is presented to the council, the council shall within six weeks after the presentation of the petition or, subject to the approval of the Municipal Board, at the next election submit to the electors entitled to vote on money by-laws for their assent thereto

a by-law or question setting out the nature of the application prayed for, and if such by-law or question receives the assent of such electors the council shall forthwith make such application to the Board.

(5) The Lieutenant Governor in Council may authorize the Minister to make an application under subsection (1) and in such case the Municipal Board has the same powers as if the application had been made by a municipality under subsection (1). Minister may apply

(6) The Municipal Board may by order made pursuant to an application under this section or by subsequent order or orders, Powers of Municipal Board

(a) make all such adjustments of assets and liabilities as between the municipalities affected by any such order as may be agreed upon or, in default of agreement, as the Board considers equitable;

(b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board considers equitable;

(c) define special areas within the area created under this section and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which liabilities shall be discharged by the imposition of rates upon the rateable property in such areas;

(d) appoint one or more referees who shall have all the powers mentioned in section 52 of the *Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses (a), (b) and (c), or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to the referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby; R.S.O. 1980, c. 347



(e) fix the remuneration and expenses of the referee or referees and declare in what proportion the remuneration and expenses shall be paid by the municipalities;

(f) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the order.

Wards

(7) The Municipal Board shall order a division or re-division of the area into not less than three wards having regard to population and size, provided that no ward shall extend beyond the boundaries of the municipality in which it is situated unless it is agreed to the contrary by the municipalities in the area.

Acting  
secretary

(8) The clerk of the municipality having the largest assessment shall act as secretary and returning officer of the area until a secretary-treasurer is appointed by the Board of Management.

Board of  
Management,  
composition

(9) There shall be a board of management to be known as the Board of Management of the Inter-Urban Area of ..... which shall be a body corporate composed of one member for each ward in the area, to be elected as hereinafter provided. R.S.O. 1970, c. 284, s. 24 (2-9).

Who may  
vote

(10) Every person whose name is on the polling list for the municipality or the part thereof within the ward as entitled to vote at municipal elections is entitled to vote at the election of the member of the Board of Management to be elected for such ward. R.S.O. 1970, c. 284, s. 24 (10); 1972, c. 121, s. 4 (1).

Time and  
place of  
elections

(11) The first election of the Board of Management and any local board shall be held at the time and in the manner directed by the Municipal Board, and each election thereafter shall be held at the same time and place as the municipal elections of the municipality in which the ward is situated. R.S.O. 1970, c. 284, s. 24 (11).

Election  
to be as  
municipal  
election

(12) Except as provided in this section, the members of the Board of Management and any local board shall be elected by ballot and the election shall be conducted by the same officers and in the same manner as the elections of aldermen and councillors, and the provisions of the *Municipal Elections Act*, respecting the time and manner of holding elections apply with necessary modifications to such election. 1972, c. 121, s. 4 (2).

R.S.O. 1980,  
c. 308



(13) Each member so elected shall hold office for two <sup>Two-year term</sup> years and until his successor is elected.

(14) The Board of Management shall appoint a secretary-treasurer <sup>Secretary-treasurer</sup> for the area and Board of Management, who shall hold office during pleasure and who, subject to the by-laws of the Board of Management, with respect to the area and the administration of its affairs and of its inhabitants has and may exercise all the authority, powers and rights and shall perform all the duties and obligations that by statute or by-law are or may be conferred or imposed upon the clerk and treasurer of a municipality with the status designated by the Municipal Board in respect of the purposes for which the area is created.

(15) The auditors of the municipality having the largest <sup>Auditors</sup> assessment within the area shall be the auditors of the area and the local boards thereof. R.S.O. 1970, c. 284, s. 24 (13-15).

(16) The secretary-treasurer shall be the returning officer <sup>Returning officer</sup> of the area and, in the case of an equality of votes for candidates for any office as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the secretary-treasurer. 1972, c. 121, s. 4 (3).

(17) No person is eligible for election as a member of the <sup>Eligibility of candidates</sup> Board of Management or any local board unless he is a resident of the ward for which he is nominated and qualified to vote at municipal elections therein.

(18) Nominations for the first election of the members of <sup>Nominations</sup> the Board of Management or for any local board for any ward shall be held at the time and in the manner directed by the Municipal Board and each year thereafter the nominations shall be held at the same time and place as the nominations of municipal candidates for the municipality in which the ward is situated.

(19) A separate set of ballot papers shall be prepared by <sup>Ballot papers</sup> the clerk of the municipality for each of the wards or polling subdivisions containing the names of the candidates for the Board of Management and any local board in the same form as those used for councillors and aldermen. R.S.O. 1970, c. 284, s. 24 (17-19).

(20) At the close of the poll in each municipality, the <sup>Duty of returning officer at close of poll</sup> returning officer thereof shall transmit to the returning officer of the area a sealed return showing the number of ballots cast for each of the candidates for election to the Board of Management and any local board and the returning

officer of the area shall make up from the returns so received by him the total number of votes cast for each candidate and at noon on the Thursday following the day on which the polling is held publicly declare the result of the election, and he shall thereupon declare in writing over his signature the name of each person so elected and shall send by pre-paid post a copy of such certificate to each candidate. 1972, c. 121, s. 4 (4).

**Vacancies**

(21) Where the office of a member of the Board of Management becomes vacant from any cause, the remaining members shall at the first meeting after the vacancy occurs appoint a qualified person, resident in the ward from which the member so vacating his seat was elected, to fill the vacancy for the remaining part of the term for which his predecessor was elected. R.S.O. 1970, c. 284, s. 24 (21).

**Meetings**

(22) The first meeting of the Board of Management shall be held at the time and place fixed by the order of the Municipal Board and thereafter the first meeting of the Board after a regular election shall be held not later than the second Tuesday in December, and the day and the hour for holding the meeting shall be fixed by by-law. 1978, c. 32, s. 2.

**Election of chairman**

(23) The secretary-treasurer shall preside at the election of the chairman or if there is no secretary-treasurer or in his absence the members present shall choose one of themselves to preside at such election and the member so chosen may vote as a member.

**Idem**

(24) In case of an equality of votes at the election of the chairman, the member who is assessed for the largest sum on the last revised assessment roll has a second or casting vote.

**Powers and duties of chairman**

(25) The chairman of the Board of Management shall be deemed to be and has all the rights, powers, privileges, duties and authority of the head of a council and municipality and a mayor or reeve of a city, town, village or township and the chairman of a local board as designated by the Municipal Board.

**Vice-chairman**

(26) The Board of Management shall appoint a vice-chairman who, during the absence of the chairman or if the office is vacant, has all the rights, powers, privileges, duties and authority of the chairman.

**Quorum**

(27) A majority of the members constituting the Board is a quorum.

(28) The area is a local municipality for the purposes for which the area was created with the status of a city, town, village or township as is designated by the Municipal Board. Status of area  
R.S.O. 1970, c. 284, s. 24 (23-28).

(29) The Board of Management is a municipal council for the administration and management of the purposes for which the area was created and is a local board as defined in the *Municipal Affairs Act* for such purposes as are designated by the Municipal Board, except school boards, library boards, boards of commissioners of police, planning boards, boards of health and health units. Status of Board of Management  
R.S.O. 1980, c. 303  
R.S.O. 1970, c. 284, s. 24 (29); 1972, c. 1, s. 104 (6).

(30) The powers vested in the Board of Management under this section shall not be exercised by the councils of the local municipalities in the area or by the council of the county, if any, in which the area is situated and the county levy, if any, shall not include a levy upon the rateable property in the area for any of the purposes for which the area was created. Board of Management supreme

(31) Every board created or amalgamated for school purposes in the area has the status of a public school board, separate school board, board of education or secondary school board as is designated by the Municipal Board, and every such board is a corporation by the name of The Public School Board, or The Separate School Board, or The Board of Education, or The Secondary School Board, of The Inter-Urban Area of . . . . ., as the case may be, or such other designation as the Municipal Board by order or school board by by-law may provide, and the provisions of the *Education Act* apply with necessary modifications to such boards, except that each board shall be composed of one member for each ward elected for a term of two years at the time and in the manner herein provided by persons entitled to vote as public school supporters or separate school supporters, as the case may be. School boards  
R.S.O. 1980, c. 129

(32) Notwithstanding subsection (31), the Municipal Board may provide that a secondary school board created under this section shall be composed of one or more members representing each local municipality in the area to be appointed by the council of each such municipality at the first meeting in each year and the members so appointed, with such additional members as are authorized by the *Education Act*, form such secondary school board. Exception

(33) When its assessment roll has been finally revised and corrected, the clerk of each municipality within the Roll to be transmitted and produced



area shall within ninety days transmit to the secretary-treasurer of the area a summarized statement of the contents of the roll showing the population and the total assessment of each of the various classes of property liable to assessment and the total business assessment and the total assessment for public school, separate school and general purposes. R.S.O. 1970, c. 284, s. 24 (30-33).

Equalization  
of  
assessment

(34) The Board of Management shall equalize the real property assessments of the municipalities within the area for public school, separate school, board of education, and secondary school purposes, as the case may be, and for such other purposes as are designated by the Municipal Board in a similar manner as is done in the case of an equalization for county purposes and similar procedures and rights apply thereto as in the case of a county equalization and for such purposes every municipality or public or separate school board thereof in the area shall be considered a municipality within a county, and for such purposes the Board of Management may with the approval of the Ministry appoint assessors who shall have the same powers and duties as an assessment commissioner. R.S.O. 1970, c. 284, s. 24 (34); 1972, c. 1, s. 1.

Basis for  
raising  
required  
sums

(35) The assessment of real property and business assessments as equalized in each municipality for the preceding year is the basis upon which any rate or sums required to be raised for each of the purposes of the area shall be apportioned. R.S.O. 1970, c. 284, s. 24 (35).

Rates

(36) The Board of Management shall prepare and adopt estimates of all sums required during the year for the purposes of the area including the rates imposed by any separate school board and the sums required to be provided by the Board of Management for any board, commission or other body, and such estimates shall set forth the estimated revenue and expenditures in such form as the Ministry may prescribe and the Board of Management shall apportion the amounts required to be raised for each purpose among the municipalities within the area and the secretary-treasurer shall forthwith after such apportionment has been made certify to the clerk of each local municipality in the area the amount or rate to be levied thereon for each purpose for the current year and the sum shall be collected and levied upon the whole rateable property within such municipality according to the last revised assessment roll, except that the amounts or rates to be levied for public school or separate school purposes shall be collected and levied upon the whole rateable property of public school supporters or separate



school supporters, as the case may be, and the total of such amounts shall be collected and paid over to the Board of Management at the time and in the manner required by the Board. R.S.O. 1970, c. 284, s. 24 (36); 1972, c. 1, s. 1.

(37) The Board of Management may by by-law require <sup>Estimates</sup> that the estimates for the current year for every board, commission or other body created for any of the purposes of the area and for which the Board of Management is by law required to raise or provide money shall be submitted to the Board of Management on or before the 1st day of March in each year and that such estimates shall be in the form and give the particulars that the by-law prescribes.

(38) The Board of Management in apportioning any rate <sup>Rates to be levied on full values</sup> or sums for any of the purposes of subsection 162 (1) shall add to the amount of the equalized assessment of each local municipality within the area any amounts exempted therefrom by reason of a fixed assessment or a partial or total exemption from assessment, except as provided in section 3 of the *Assessment Act*. R.S.O. 1980, c. 31

(39) In raising money for any of the purposes of the <sup>Borrowing powers</sup> Board of Management by way of debentures, the assent of the electors is not required and, for current borrowing, section 189 applies with necessary modifications.

(40) The Municipal Board may make such orders in <sup>Power to make additional orders, etc.</sup> respect of any matter not specifically provided for in this section as it considers expedient in connection with the area and every such order is valid and binding upon all municipalities and local boards affected thereby.

(41) The powers conferred upon the Municipal Board by <sup>Conflict</sup> this section may be exercised at any time notwithstanding any other provision in this Act or any other special or general Act and, in the event of conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail except that nothing herein affects or limits the powers of a separate school board with respect to the imposing, levying and collecting of school rates, the borrowing of money for school purposes and the making of instruments for the security of payment thereof. R.S.O. 1970, c. 284, s. 24 (37-41).

(42) Any area created in unorganized territory is subject <sup>Unorganized territory</sup> to Part III of the *Municipal Affairs Act*. R.S.O. 1970, c. 284, s. 24 (42); 1972, c. 1, s. 104 (6). R.S.O. 1980, c. 303

## DISSOLUTIONS

Interpre-  
tation

**25.**—(1) In this section, “municipality” means local municipality, and includes,

- (a) a police village;
- (b) an elementary school board having jurisdiction only in territory without municipal organization;
- (c) a secondary school board having jurisdiction only in territory without municipal organization;
- (d) road commissioners under the *Statute Labour Act* having jurisdiction only in territory without municipal organization;
- (e) a board of management established under section 24.

R.S.O. 1980,  
c. 482Dissolution  
of municipi-  
pality, etc.

- (2) Upon the application, authorized by by-law,
  - (a) of a municipality to have the municipality dissolved; or
  - (b) of a municipality to have dissolved one of its local boards that it is not required by law to have and for the dissolution of which no provision is made by law; or
  - (c) of a municipality that adjoins territory without municipal organization for the detachment from the municipality of any part or parts thereof,

the Municipal Board may by order on such terms as it may consider expedient,

- (d) dissolve the municipality; or
- (e) dissolve the local board; or
- (f) detach from the municipality such part or parts or any larger or smaller part or parts,

as the case may be, and the order shall take effect on the day named therein.

Dissolution  
of board of  
management

- (3) An application for the dissolution of a board of management established under section 24 may be made under subsection (2) by the board of management or by any

municipality within the area for which the board of management was established.

(4) The Lieutenant Governor in Council may authorize the Minister to apply to the Municipal Board for any purposes mentioned in clause (2) (a), (b) or (c), and in such case the Municipal Board has the same powers as if the application had been made under subsection (2) by the municipality concerned. <sup>Application by Minister</sup>

(5) The Municipal Board, before proceeding with an application under subsection (2), may require the assent of the electors of the municipality. <sup>Assent of electors</sup>

(6) The Municipal Board, before making an order under subsection (2), shall hold a public hearing, after such notice thereof has been given as the Board may direct which shall in every case include a written notice to the Minister of Health, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1970, c. 284, s. 25 (1-6). <sup>Public hearing</sup>

(7) The Municipal Board may by any order under subsection (2) or by subsequent order or orders, <sup>Powers of Board</sup>

- (a) in the case of an application under clause (2) (a), declare that the municipality dissolved shall be an improvement district or that the lands comprising the municipality or any part or parts thereof shall be annexed to another municipality or municipalities or that the lands comprising the municipality or any part or parts thereof shall become territory without municipal organization;
- (b) in the case of an application under clause (2) (b), provide for the disposition of the assets and liabilities of the local board in such manner as may be agreed upon or, in default of agreement, as the Board considers equitable;
- (c) in the case of an application under clause (2) (c), declare that the lands detached from the applicant municipality shall be an improvement district or that such lands or any part or parts thereof shall be annexed to another municipality or municipalities or that such lands or any part or parts thereof shall become territory without municipal organization;
- (d) make all such adjustments of assets and liabilities as between any municipalities, including counties,

affected by any such order as may be agreed upon or, in default of agreement, as the Board considers equitable;

- (e) define the municipality dissolved or the lands detached as a special area and adjust the rights, claims, liabilities and obligations of the ratepayers of such area and provide the extent to and the manner in which the liabilities of the municipality dissolved or the lands detached shall be discharged by the imposition of rates upon the rateable property in such area or otherwise;
- (f) upon the dissolution of a police village, provide for the maintenance of any works or services previously provided within the police village by the trustees of the police village, pursuant to the provisions of any Act, upon such terms and conditions as it considers necessary or desirable, and subsections 14 (12), (13) and (14) apply with necessary modifications;
- (g) upon the dissolution of a police village, provide for the continued operation of any local hydro-electric system previously established by the trustees of the police village under section 66 of the *Power Corporation Act* and for the transfer to the council of the township of the control and management of works established for the distribution of power in the area of such police village;
- (h) appoint one or more referees, who shall have all the powers mentioned in section 52 of the *Ontario Municipal Board Act*, to inquire into and report to the Board upon the disposition and adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses (b), (d) and (e), or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;
- (i) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;

R.S.O. 1980,  
c. 384

R.S.O. 1980,  
c. 347



- (j) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the dissolution or detachment provided for in the order. R.S.O. 1970, c. 284, s. 25 (7); 1973, c. 57, s. 19.

(8) The Municipal Board may make such rules and regulations and issue such orders and directions with respect to any matter not specifically provided for in this section as it considers necessary or desirable in connection with the dissolution or detachment. R.S.O. 1970, c. 284, s. 25 (8). Rules, etc.

**26.** When the Minister institutes an inquiry into the structure, organization and methods of operation of one or more municipalities, he may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications made under this Part should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Municipal Board that they may be continued. R.S.O. 1970, c. 284, s. 26. Notice by Minister to Municipal Board to stay proceedings

## PART II

### MUNICIPAL COUNCILS—HOW COMPOSED

#### COUNTIES

**27.—**(1) The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county. County councils

(2) Where a town not being a separated town, or a village, or a township in a county, has more than 2,000 and not more than 3,000 municipal electors, the reeve as a member of the county council has an additional vote and, where it has more than 3,000 municipal electors, the reeve and the deputy reeve as members of the county council each has an additional vote. Vote of reeve and deputy reeve in towns, villages and townships

(3) Subsections 36 (2), (3) and (6) apply to this section. R.S.O. 1970, c. 284, s. 27. Application of s. 36 (2, 3, 6)

**28.—**(1) Notwithstanding section 27, the council of a county may provide that the council of the county shall be composed of the reeves of the towns, not being separated towns, Alternative composition of county council

and of the villages and townships in the county together with the deputy reeves of such towns, villages and townships where they have 2,500 or more municipal electors.

Vote of reeve and deputy reeve in towns, villages and townships

(2) Where provision for composition of the council is made under subsection (1), subsection 27 (2) does not apply and where a town, not being a separated town, or a village or a township in a county, has more than 5,000 and not more than 7,500 municipal electors, the reeve as a member of the county council has an additional vote and, where it has more than 7,500 municipal electors, the reeve and the deputy reeve as members of the county council each has an additional vote.

Application of s. 36 (2, 3, 6)

(3) Subsections 36 (2), (3) and (6) apply to this section. 1973, c. 83, s. 1, *part*.

Alternative composition of county council

**29.**—(1) Notwithstanding section 27, the council of a county may provide that the council of the county shall be composed of only the reeves of the towns, not being separated towns, and of the villages and townships in the county.

Vote of reeve in towns, villages and townships

(2) Where provision for composition of the council is made under subsection (1), subsection 27 (2) does not apply, and where a town, not being a separated town, or a village or a township in a county, has more than 1,000 and not more than 2,000 municipal electors, the reeve as a member of the county council has an additional vote, where it has more than 2,000 and not more than 3,000 municipal electors he has two additional votes, and where it has more than 3,000 municipal electors he has three additional votes.

Application of s. 36 (2, 3, 6)

(3) Subsections 36 (2), (3) and (6) apply to this section. 1973, c. 83, s. 1, *part*.

Time for passing by-law

(4) A by-law for any of the purposes mentioned in subsection (1) of this section or subsection 28 (1) or a by-law repealing any such by-law shall, in an election year, be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*. 1978, c. 32, s. 3.

R.S.O. 1980, c. 308

#### CITIES

Councils of cities, how composed

**30.**—(1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and,

(a) three aldermen for each ward; or

(b) where the council by by-law so provides, two aldermen for each ward; or

(c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one alderman for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

(2) In the case provided for by clause (1) (c), or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards R.S.O. 1970, c. 284, s. 28 (1, 2).

By-law for  
election by  
general  
vote

(3) A by-law for the purposes mentioned in clause (1) (b) or (c) shall not be repealed until at least two regular elections have been held under it and a by-law under subsection (2) shall not be repealed until at least three regular elections have been held under it. 1972, c. 121, s. 5.

Repeal of  
by-law

(4) A by-law for any of the purposes mentioned in subsections (1) and (2) and a by-law repealing any such by-law shall, in an election year, be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*, and such by-law shall not be passed unless it has received the assent of the municipal electors. 1978, c. 32, s. 4 (1).

When and  
how by-law  
to be passed

R.S.O. 1980,  
c. 308

(5) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the municipal election next after the passing of it. R.S.O. 1970, c. 284, s. 28 (5).

When  
by-law to  
take effect

(6) Subject to subsections (3) and (7), where the petition of at least one-fifth of the municipal electors is presented praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause (1) (c), or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection (2), or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition.

Submission  
of by-law  
on petition  
of electors

(7) A petition for any of the purposes mentioned in subsection (6) shall, in an election year, be presented not

Time for  
presentation  
of petition

R.S.O. 1980,  
c. 308

later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*, 1978, c. 32, s. 4 (2).

#### TOWNS

Councils  
of towns in  
unorganized  
territory

**31.**—(1) The council of a town in unorganized territory shall be composed of a mayor and six councillors to be elected by general vote or, where the council so provides, the council shall consist of a mayor and four councillors to be elected by general vote.

Councils of  
towns over  
5,000

(2) If the town has a population of not less than 5,000, the council may provide that the council shall be composed of a mayor and nine councillors, or a mayor and seven councillors, to be elected by general vote.

Election by  
wards

(3) Where a town in unorganized territory has been divided into wards, the council may provide that the council shall be composed of a mayor and one councillor for each ward, and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. R.S.O. 1970, c. 284, s. 29.

Councils of  
towns of  
more than  
5,000 in  
counties

**32.**—(1) Where a town in a county has a population of more than 5,000 and less than five wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and three councillors for each ward, but, if there are five or more wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward.

Alternate  
powers

(2) Where the town has less than five wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward or that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and six councillors, or a mayor, a reeve, a deputy reeve where so entitled, and four councillors, to be elected by general vote, and, where the town has five or more wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and one councillor for each ward.

Case of town  
of not more  
than 5,000

(3) Where the town has a population of not more than 5,000, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and,



(a) six councillors to be elected by general vote or, where the council so provides, four councillors to be elected by general vote; or

(b) where the council so provides, one councillor for each ward and the remaining councillors to complete the full number of four or six, as the case may be, to be elected by general vote. R.S.O. 1970, c. 284, s. 30 (1-3).

(4) A by-law passed under section 31 or under subsection (2) or (3) of this section shall not be repealed until two regular elections have been held under it. 1972, c. 121, s. 6. Repeal of by-law

(5) A by-law passed under section 31 or under subsection (2) or (3) of this section, and a by-law repealing any such by-law shall, in an election year, be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*, and such by-law shall not be passed unless it has received the assent of the municipal electors. 1978, c. 32, s. 5 (1). Time for passing of by-laws; assent of electors  
R.S.O. 1980, c. 308

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the municipal election next after its passing. R.S.O. 1970, c. 284, s. 30 (6). When by-law to take effect

(7) Subject to subsections (4) and (9), where a petition of not less than one-fifth of the municipal electors is presented praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition. Submission of question on petition of electors

(8) Subject to subsections (4) and (9), where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors shall submit the question of repealing the by-law to a vote of the electors at the next ensuing municipal election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. Submission of question of repeal

(9) A petition presented under subsection (7) or (8) shall, in an election year, be presented not later than thirty days Time for presentation of petition

prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*. 1978, c. 32, s. 5 (2).

R.S.O. 1980,  
c. 308

Population

**33.** For the purposes of sections 30 to 32, the population shall be determined by the latest census made by the assessor under the *Assessment Act*. R.S.O. 1970, c. 284, s. 31.

R.S.O. 1980,  
c. 31

#### VILLAGES AND TOWNSHIPS

Councils of  
villages and  
townships  
in counties

**34.—(1)** In a county, the council of a village and the council of a township shall consist of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up five in all, and they shall all be elected by general vote.

Villages  
and town-  
ships with  
population  
of 10,000  
or more

(2) If a village or township in a county has a population of not less than 10,000, the council may by by-law provide that the council shall be composed of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up seven in all to be elected by general vote. R.S.O. 1970, c. 284, s. 32 (1, 2).

Time for  
passing  
by-law

(3) A by-law for the purpose mentioned in subsection (2) and a by-law repealing any such by-law shall, in an election year, be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*, and such by-law shall take effect at and for the purpose of the municipal election next after the passing of it. 1978, c. 32, s. 6 (1).

Wards

(4) Where a village or township is divided into wards, the council, notwithstanding any general or special Act, shall be composed of a reeve to be elected by general vote, and a deputy reeve and a councillor to be elected for each ward and, where there are less than five wards, the Municipal Board may by order provide for an additional councillor for any ward having a population greater than 10,000.

County  
council

(5) Notwithstanding any other provision, no village or township shall have greater representation upon the county council than the reeve and one deputy reeve to be appointed by the council.

Alternative  
composition  
where wards

(6) The council of a village or township divided into wards may by by-law provide that thereafter the council shall be composed of a reeve and deputy reeve, each to be elected by general vote, and a councillor to be elected for each ward and where there are less than five wards the by-law may also

provide for an additional councillor to be elected for any ward having a population greater than 10,000. R.S.O. 1970, c. 284, s. 32 (4-6).

(7) A by-law passed under subsection (6) shall not be repealed until at least two regular elections have been held under it. 1972, c. 121, s. 7. Repeal of by-law

(8) A by-law for the purpose mentioned in subsection (6) and a by-law repealing any such by-law shall, in an election year, be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act*, and such by-law shall not be passed until it has received the assent of the municipal electors. 1978, c. 32, s. 6 (2). Time for passing, assent of electors  
R.S.O. 1980, c. 308

(9) Notwithstanding subsection (8), a by-law for the purpose mentioned in subsection (6) may be passed without the assent of the municipal electors if a by-law or a question for the division of the municipality into wards has received the assent of the municipal electors. Where assent unnecessary

(10) Every such by-law, including a repealing by-law, shall take effect at and for the purpose of the municipal election next after the passing of it. R.S.O. 1970, c. 284, s. 32 (9, 10). Effective date

**35.**—(1) In unorganized territory, the council of a village and the council of a township shall consist of a reeve and four councillors to be elected by general vote. Councils of villages and townships in unorganized territory

(2) If the village or township has a population of not less than 2,000, the council may provide that the council shall consist of a reeve and six councillors, a reeve and seven councillors or a reeve and nine councillors. Where population of 2,000 or more

(3) If the village or township has been divided into wards, the council may provide that the council shall consist of a reeve and one councillor for each ward and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. R.S.O. 1970, c. 284, s. 33. Election by wards

#### TOWNS, VILLAGES AND TOWNSHIPS

**36.**—(1) Every town not being a separated town, village and township in a county is entitled where it has more than 1,000 municipal electors to a deputy reeve. R.S.O. 1970, c. 284, s. 34 (1). Deputy reeves

Number of  
electors, how  
determined

R.S.O. 1980,  
c. 308

Certificate  
of clerk

Right to  
deputy reeve

Application of  
R.S.O. 1980,  
c. 308

Offence

(2) The number of municipal electors for a municipality shall be determined from the polling lists for an election in the municipality last revised and certified by the clerk under the *Municipal Elections Act*, but, in counting the names, the name of the same person shall not be counted more than once.

(3) It is the duty of the clerk of any such municipality having less than 10,000 municipal electors according to the polling lists last revised and certified by the clerk under the *Municipal Elections Act*, forthwith after revision of the lists to send by registered mail to the clerk of the county a certificate under his hand and the seal of the corporation, stating the total number of municipal electors for the municipality according to such lists who are to be counted under subsection (2) and to post up in his office a duplicate of such certificate.

(4) Where the right of a municipality in any county to a deputy reeve is contested, any municipal elector in the county may commence an action by writ of summons in the county court for the county for a declaration that the municipality is or is not entitled to a deputy reeve.

(5) The provisions of sections 107 to 114 of the *Municipal Elections Act* apply with necessary modifications to an action brought under this section. 1972, c. 121, s. 8.

(6) If the clerk fails to send such certificate within the prescribed time, he is guilty of an offence and on conviction is liable to a fine of not more than \$50 and, if he certifies to a larger number of municipal electors than should be counted under subsection (2), he is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 284, s. 34 (4).

#### QUALIFICATIONS OF MEMBER OF COUNCIL

Qualification  
of  
candidates

**37.** Every person is qualified to hold office as a member of a council of a local municipality,

(a) who is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council; and

(b) who is not disqualified by this or any other Act from holding such office. 1978, c. 32, s. 7.

#### DISQUALIFICATION

Persons  
disqualified  
from being  
members of  
council

**38.—**(1) The following are not eligible to be elected a member of a council or to hold office as a member of a council:



1. Except during a leave of absence granted under subsection (4), an employee of the municipality or of a local board thereof as defined in the *Municipal Affairs Act*, except an employee of a school board, and a commissioner, superintendent or overseer of any work, whose appointment is authorized under section 252. R.S.O. 1980,  
c. 303
2. A judge of any court.
3. A member of the Assembly as provided in the *Legislative Assembly Act* or of the Senate or House of Commons of Canada. R.S.O. 1980,  
c. 235
4. A Crown employee within the meaning of the *Public Service Act* who is a deputy minister or who is in a position or classification designated in the regulations made under that Act for the purposes of section 11 thereof. R.S.O. 1980,  
c. 418
5. A person who is an undischarged bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario. 1972, c. 169, s. 1, *part*; 1973, c. 83, s. 2.

(2) In addition to the persons that are not eligible to be elected a member of a council or to hold office as a member of a council under paragraph 1 of subsection (1), and except during a leave of absence granted under subsection (4), an employee of a metropolitan, regional or district municipality or of any area municipality within that metropolitan, regional or district municipality is not eligible to be elected a member of the council of any area municipality within that metropolitan, regional or district municipality or to be elected a member of the council of that metropolitan, regional or district municipality or to hold office as a member of any such council. 1972, c. 169, s. 1, *part*. Idem

(3) For the purposes of subsection (2), a county that has been restructured to provide that it is composed of area municipalities shall be deemed to be a regional municipality. 1974, c. 85, s. 1 (1), *part*. Restructured  
county  
deemed  
regional  
municipality

(4) Any employee of a municipality or a local board thereof other than a school board and other than a commissioner, superintendent or overseer of any work whose appointment is authorized under section 252 who proposes to be a candidate to hold office as a member of the council of that municipality or the council of a municipality in the circumstances to which subsection (2) applies shall apply to Leave of  
absence

the council of the municipality or to the local board, as the case may be, of which he is an employee for leave of absence without pay for a period,

R.S.O. 1980,  
c. 308

- (a) not longer than that commencing thirty days before the beginning of the period during which candidates may be nominated under the *Municipal Elections Act* and ending on polling day; and
- (b) not shorter than that commencing on the last day of the period during which candidates may be nominated under the *Municipal Elections Act* and ending on polling day,

and every such application shall be granted.

Resignation

(5) Where an employee of a municipality or a local board thereof other than a school board and other than a commissioner, superintendent or overseer of any work whose appointment is authorized under section 252 who is a candidate for office as a member of the council of that municipality or the council of a municipality in the circumstances to which subsection (2) applies under a leave of absence granted under subsection (4) is elected he shall forthwith resign his position as such employee. 1974, c. 85, s. 1 (2).

Service  
deemed  
continuous

(6) Where an employee of a municipality or of a local board has been granted leave of absence under subsection (4) and was not elected, the period of leave of absence shall not be computed in determining the length of his service for any purpose, and the service before and after such period shall be deemed to be continuous for all purposes. 1972, c. 169, s. 1, *part.*

Volunteer  
fire  
fighters  
R.S.O. 1980,  
c. 164

(7) A person is not ineligible to be elected or to hold office as a member of council only by reason of being a volunteer fire fighter as defined in the *Fire Departments Act* and subsections (4), (5) and (6) do not apply to a person who is a volunteer fire fighter but who is not otherwise employed by the municipality or a local board thereof. 1980, c. 36, s. 1.

### PART III

#### VACANCIES

Vacancies

**39.** The seat of a member of council becomes vacant if,

- (a) he becomes disqualified from holding the office of a member of council under section 38;

- (b) he has neglected or refused to accept office or to make the prescribed declarations within the prescribed time;
- (c) he absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes;
- (d) he files his resignation with the clerk of the municipality as provided in subsection 92 (7) of the *Municipal Elections Act*, for the purpose of becoming a candidate for some other office; R.S.O. 1980, c. 308
- (e) he resigns from his office and his resignation is effective under section 41;
- (f) he is appointed to fill a vacancy in the office of mayor, reeve, deputy reeve or controller;
- (g) his office is declared vacant in any judicial proceedings;
- (h) he forfeits his office under this or any other Act; or
- (i) he dies, whether prior or subsequent to accepting office and making the prescribed declarations. 1972, c. 121, s. 11, *part*; 1977, c. 48, s. 1.

**40.** No person may hold more than one office, election to which is governed by the *Municipal Elections Act*, whether in the same or in two or more municipalities and, if he is nominated for and his name appears on the ballots for more than one of such offices and he is elected to any of such offices, his election is void and the office is vacant. 1972, c. 121, s. 11, *part*. Holding more than one elective office prohibited

**41.** A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and his resignation may not be accepted and is not effective if it would reduce the number of the members of the council to less than a quorum. 1972, c. 121, s. 11, *part*. Resignation of member with consent of council

**42.—(1)** The warden of a county may resign his office by notice in writing filed with the county clerk and his office then becomes vacant. Resignation of warden

Vacancy in  
office of  
warden,  
how filled

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy and, if required in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. 1972, c. 121, s. 11, *part*.

Duty of  
council to  
declare seat  
vacant

**43.** Where the seat of a member of a council becomes vacant under section 39, the council shall forthwith declare the seat to be vacant. 1972, c. 121, s. 11, *part*.

Action for  
declaration  
that seat  
vacant

**44.**—(1) Any elector entitled to vote at the election of members of a council may commence an action by writ in the county or district court in the county or district in which the municipality is situate for a declaration that the office of a member of such council has become vacant in accordance with this Act.

Time for  
bringing  
action

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the council came to the knowledge of the person bringing such action.

Power of  
court

(3) Where in an action under this section, the court finds that the office of a member of the council has become vacant, the court may order that the member be removed from office and declare that the office is vacant.

Application of  
R.S.O. 1980,  
c. 308

(4) The provisions of sections 107 to 114 of the *Municipal Elections Act* apply with necessary modifications to an action brought under this section.

Joining of  
claims

(5) A claim in an action under this section may be joined with a claim in an action under section 106 of the *Municipal Elections Act*, and such claims may be heard and disposed of in the same action. 1972, c. 121, s. 11, *part*.

#### APPOINTMENTS TO VACANCIES

Filling  
vacancy by  
appointment

**45.**—(1) Subject to section 46, where a vacancy occurs in the office of a member of the council of a local municipality, the council at a meeting called for that purpose shall appoint a person who has consented to accept the office if he is appointed to fill the vacancy and,



(a) in the case of the office of councillor or alderman, such person is a person qualified to hold office as a member of the council; and

(b) in the case of the office of mayor, reeve, deputy reeve or controller, such person is a member of the council on the date of his appointment.

(2) If more than one person is nominated for appointment to fill a vacancy under this section, a vote of the members of council shall be taken by the clerk at a regular meeting or at a special meeting called for the purpose. Where vote to be taken by clerk

(3) A person nominated under this section who receives the votes of more than one-half the number of all members of council shall fill the vacancy for which the vote by council was held. Majority vote required

(4) Where a candidate for appointment under this section receiving the greatest number of votes cast does not receive more than one-half the votes of all members of council, the candidate who received the fewest number of votes shall be excluded from the voting and the vote shall be taken again by the clerk, and if necessary more than once, excluding in each successive vote the candidate who received the fewest number of votes in the preceding vote, until the candidate receiving the greatest number of votes has also received more than one-half the votes of the members of council present and voting. Procedure where no majority vote obtained

(5) Where the votes cast in a vote under this section are equal for all the candidates, Idem

(a) if there are three or more candidates nominated or remaining, the clerk shall by lot select one such candidate to be excluded from the subsequent voting; or

(b) if only two candidates remain the tie shall be broken and the vacancy shall be filled by the candidate selected by lot conducted by the clerk.  
1972, c. 121, s. 11, *part*.

(6) For the purposes of subsection (5), "lot" means the method of determining the candidate to be excluded or the candidate to fill the vacancy, as the case may be, by placing the names of the candidates on equal size pieces of paper Method of conducting lot

placed in a box and one name being drawn by a person chosen by the clerk. 1978, c. 32, s. 8.

Filling  
vacancy by  
election

**46.**—(1) Subject to subsection (3), where a vacancy occurs in the office of a member of the council of a local municipality, the council may by by-law require an election to be held to fill the vacancy and where the council passes such a by-law the clerk of the municipality shall hold a new election to fill the vacancy in accordance with section 92 of the *Municipal Elections Act*.

R.S.O. 1980,  
c. 308

Idem

(2) Subject to subsection (3), where a direction is given in any judicial proceedings to hold an election to fill a vacancy on a council, the clerk of the municipality shall hold a new election to fill the vacancy in accordance with section 92 of the *Municipal Elections Act*. 1972, c. 121, s. 11, *part*.

Vacancy  
after  
March 31st  
of election  
year  
1977, c. 62

(3) Where a vacancy occurs in the office of a member of the council of a local municipality after the 31st day of March of an election year as defined in the *Municipal Elections Act*, the vacancy shall not be filled by a new election as provided in subsection (1) or (2) but the council shall fill such vacancy in accordance with the provisions of section 45 within forty-five days after the day that the vacancy occurs, but where the vacancy occurs less than forty-six days prior to nomination day for the election to be held in that year the vacancy need not be filled. 1980, c. 74, s. 1.

Term of  
office

**47.** A person appointed or elected to an office under section 45 or 46 shall hold office for the remainder of the term of the person whose place he is appointed or elected to fill. 1972, c. 121, s. 11, *part*.

Minister  
may declare  
seats vacant

**48.**—(1) In the event that the council of any municipality or a local board thereof is unable, for a period of two months, to hold a meeting of the council or of the local board because of failure to obtain a quorum, the Minister may by order declare the seats of the members of the council or local board to be vacant and a new election shall be held in accordance with the provisions of the *Municipal Elections Act*.

Interim  
adminis-  
tration

(2) In the event that the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with the *Municipal Elections Act*, and the members so elected have taken office. 1977, c. 48, s. 2.

## PART IV

## MEETINGS OF MUNICIPAL COUNCILS

## FIRST MEETING OF COUNCIL

**49.**—(1) The first meeting of the council of a local municipality after a regular election shall be held not later than the second Tuesday in December, and the meeting shall be held at 11 o'clock in the forenoon or at such hour as may be fixed by by-law. 1978, c. 32, s. 9 (1).

First  
meeting of  
council,  
local  
municipality

(2) The first meeting of the council of a county after a regular election shall be held after the councils of the municipalities that form part of the county for municipal purposes have held their first meetings under subsection (1) but in any event not later than the third Tuesday in December, and the meeting shall be held at 2 o'clock in the afternoon or at such hour as may be fixed by by-law. 1978, c. 32, s. 9 (2).

county

(3) No business shall be proceeded with at the first meeting until after the declarations of office have been made by all the members who present themselves for that purpose.

Declarations  
of office  
before  
business

(4) A council shall be deemed to be organized within the meaning of this Act when the declarations of office have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. R.S.O. 1970, c. 284, s. 184 (3, 4).

When  
council  
deemed  
organized

**50.** A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate (Form 2) under the hand of the clerk of the municipality for which he was elected and the seal of the corporation. R.S.O. 1970, c. 284, s. 185.

Certificate  
of election

**51.**—(1) The council of a county shall, in each year of its term at its first meeting at which a majority of all the members is present, elect one of the members to be warden. 1978, c. 32, s. 10.

Warden.  
election

(2) The clerk shall preside or, if there is no clerk, the members present shall select a member to preside, and the person so elected may vote as a member.

Clerk to  
preside

(3) Subject to subsection (4) and to section 62, the warden shall be elected in the manner provided by resolution of the council passed prior to the election.

Conduct of  
election

Case of  
equality  
of votes

(4) In case of an equality of votes, the reeve or, in his absence, the deputy reeve of the municipality which for the preceding year had the largest equalized assessment shall have a second or casting vote. R.S.O. 1970, c. 284, s. 186 (2-4).

#### PLACE OF MEETING

Place of  
first meeting  
of county  
council

**52.** The first meeting of a county council shall be held at the county hall if there is one and, if there is none, at the court house. R.S.O. 1970, c. 284, s. 187.

Subsequent  
meetings

**53.** The subsequent meetings of the county council and all meetings of every other council shall be held at such place as the council from time to time appoints. R.S.O. 1970, c. 284, s. 188.

Location  
of offices,  
county

**54.—**(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose.

township

(2) The council of a township has the like power in respect of an adjacent urban municipality or township in the same county. R.S.O. 1970, c. 284, s. 189.

Open  
meetings  
R.S.O. 1980,  
c. 303

**55.—**(1) The meetings, except meetings of a committee including a committee of the whole, of every council and of every local board as defined by the *Municipal Affairs Act*, except boards of commissioners of police and school boards, shall be open to the public, and no person shall be excluded therefrom except for improper conduct. R.S.O. 1970, c. 284, s. 190 (1); 1972, c. 1, s. 104 (6).

Exclusion  
of certain  
persons

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1970, c. 284, s. 190 (2).

Quorum

**56.—**(1) A majority of the whole number of members required to constitute a council is necessary to form a quorum.

Where  
council  
consists  
of five  
members

(2) Where a council consists of only five members, the concurrent votes of at least three of them is necessary to carry any resolution or other measure. R.S.O. 1970, c. 284, s. 191.



**57.**—(1) The head of the council shall preside at all meetings of the council. Head of council to preside

(2) The head of the council may at any time summon a special meeting, and upon receipt of the petition of the majority of the members of the council the clerk shall summon a special meeting for the purpose and at the time mentioned in the petition. R.S.O. 1970, c. 284, s. 192. Special meeting

**58.** If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be either open or closed as in the opinion of the council, expressed by resolution in writing, the public interest requires. R.S.O. 1970, c. 284, s. 193. Place of special meeting

**59.** In the absence of the head of the council, or if his office is vacant, or if he refuses to act, the council may, from among the members, appoint a presiding officer who, during such absence or vacancy or refusal to act, has all the powers of the head of the council. R.S.O. 1970, c. 284, s. 194. Appointment of presiding officer in absence of head

**60.** If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he has the same authority as the absent person would have had if present. R.S.O. 1970, c. 284, s. 195. Casual absence of presiding officer

**61.** The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions, and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1970, c. 284, s. 196. Head or presiding officer may vote; equality of votes

**62.**—(1) Except where he is disqualified to vote by reason of interest or otherwise, where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it. Voting to be open and to be recorded

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect. R.S.O. 1970, c. 284, s. 197. No vote by ballot

Prohibition  
as to  
member  
voting to  
appoint  
himself to  
office, etc.

**63.** No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corporation, but this does not apply to a by-law for paying remuneration passed under section 238 or 240. 1978, c. 32, s. 11.

Application  
of s. 63, re  
filling of  
vacancies

R.S.O. 1980,  
c. 303

**64.** Section 63 does not apply to the election or appointment of a member of council to fill a vacancy, office or position in the council or in any local board as defined by the *Municipal Affairs Act* when the council is empowered or required by any general or special Act to fill such vacancy, office or position. R.S.O. 1970, c. 284, s. 200; 1972, c. 1, s. 104 (6); 1972, c. 169, s. 6.

Adjournment

**65.** A council may adjourn its meetings from time to time. R.S.O. 1970, c. 284, s. 201.

Voting of  
county  
councillors in  
committee

**66.** The council of a county may by by-law provide that a member who in council has an additional vote by virtue of subsection 27 (2) shall as a member of any committee have an additional vote therein. R.S.O. 1970, c. 284, s. 202.

## PART V

### BOARDS OF CONTROL

In cities of  
not less than  
100,000

**67.—**(1) Subject to subsection (2), in cities having a population of not less than 100,000, there shall be a board of control consisting of the mayor and four controllers to be elected by general vote.

City may  
dispense  
with board  
of control

(2) The council of a city having a population of not less than 100,000 may, by an affirmative vote of two-thirds of all the members of the council, pass a by-law providing that the city shall not have a board of control.

Approval of  
Municipal  
Board

(3) No by-law passed under subsection (2) shall come into force without the approval of the Municipal Board. R.S.O. 1970, c. 284, s. 203.

In cities  
or towns  
of not less  
than 45,000  
and other  
local muni-  
cipalities  
of not less  
than 100,000

**68.—**(1) In cities or towns having a population of not less than 45,000 and in other local municipalities having a population of not less than 100,000, the council may, by an affirmative vote of two-thirds of all the members of the council, pass a by-law,

- (a) where the council, excluding the head of council, reeve and deputy reeve, consists of ten or more members, providing that there shall be a board of control consisting of the head of council and four controllers to be elected by general vote; or
- (b) where the council, excluding the head of council, reeve and deputy reeve, consists of less than ten members, providing that there shall be a board of control consisting of the head of council and two controllers to be elected by general vote; or
- (c) where the council of a municipality has passed a by-law or by-laws providing that the council shall consist of ten or more members to be elected at the next election of members of the council, providing that, commencing with the first year in which the enlarged council holds office, there shall be a board of control consisting of the head of council and four controllers to be elected by general vote.

(2) No by-law passed under subsection (1) or a by-law that repeals a by-law passed under subsection (1) comes into force without the approval of the Municipal Board.

Approval of  
Municipal  
Board

(3) Notwithstanding any other provision in this Act, where the council of a municipality provides that there shall be a board of control in the municipality, the council shall be composed of such members, except a reeve who is not the head of council and a deputy reeve, as are otherwise provided in this Act together with the members of the board of control.

Composition  
of council

(4) For the purpose of representation on county council,

County repre-  
sentation

- (a) in the case of a town,
  - (i) the controller who at the municipal election next preceding the organization of the county council received the highest number of votes shall be deemed to be the reeve of the town, and
  - (ii) the controller who at such election received the second highest number of votes shall be deemed to be the deputy reeve of the town; and
- (b) in the case of any other local municipality that is entitled to a deputy reeve, the controller who

at the municipal election next preceding the organization of the county council received the highest number of votes shall be deemed to be the deputy reeve of the local municipality; and

- (c) where because of a tie vote it cannot be ascertained which controller received the highest or second highest number of votes or where one or more of the controllers is elected by acclamation, the controller who shall be deemed to be reeve or deputy reeve, as the case may be, shall be determined by resolution of council. R.S.O. 1970, c. 284, s. 204.

Presiding  
officer to  
act in  
absence of  
head of  
council

**69.** During the absence of the head of council or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board. R.S.O. 1970, c. 284, s. 206.

Quorum,  
head of  
council  
to preside

**70.** A majority of the members of a board of control is a quorum, and the head of council shall preside at the meetings of the board, and, in his absence, the members shall appoint one of their number to preside. R.S.O. 1970, c. 284, s. 207 (1).

Duties of  
board:

**71.—(1)** It is the duty of the board of control,

to prepare  
estimates

- (a) to prepare estimates of the proposed expenditure of the year and certify them to the council for its consideration;

to award  
contracts

- (b) to prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material, and supplies, implements, machinery, or other goods or property required and that may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting;

to inspect  
municipal  
works

- (c) to inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress;

to nominate  
officers of  
corporation

- (d) to nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the



department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks.

(2) The board of control may dismiss or suspend any head of a department and shall forthwith report such dismissal or suspension to the council. Dismissal of department heads

(3) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition does not extend to the payment of any debenture or other debt or liability of the corporation. Appropriation and expenditure

(4) When opening tenders, the board shall require the presence of the head of the department or sub-department with which the subject-matter of them is connected and, when requisite, the presence of the city solicitor. Head of department to be present when tenders are opened

(5) The head of such department or sub-department may take part in any discussion at the board relating to the tenders. Discussion as to tenders

(6) The council shall not without a two-thirds vote reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tender other than the one to whom the board has awarded it. Reversal by council of action of board

(7) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause (1) (d), without a two-thirds vote. Appointment of head of department on nomination of board

(8) Where the head of a department has been dismissed by the board, he shall not be reappointed or reinstated by the council without a two-thirds vote. Reinstatement of dismissed head

(9) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not Controlling appointment and duties of subordinate officers

included in clause (1) (d), the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Submission  
of by-laws,  
etc.

(10) The board may submit proposed by-laws to the council.

Amalgama-  
tion of  
departments

(11) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Secretary  
of board

(12) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Other duties  
assigned by  
council

(13) The council may by by-law or resolution assign to the board such other duties as the council considers proper.

Copies of  
minutes,  
when to be  
furnished  
to council

(14) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession that the council may require.

Referring  
matter back  
for recon-  
sideration

(15) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Recording  
votes on  
action of  
board

(16) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is required, the vote by yeas and nays shall be recorded in the minutes of the council.

School  
boards to  
send in  
estimates

(17) The public, secondary and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board, whose estimates are to be provided for, shall furnish their annual estimates to the board on or before the 1st day of March in each year.

Certain  
officers  
not to be  
nominated  
by board

(18) Clause (1) (d) does not apply to a member of the fire department, except the head of it, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative.

Exclusive  
rights of  
board

(19) Notwithstanding any other provision in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection (10). R.S.O. 1970, c. 284, s. 208.

## PART VI

## OFFICERS OF MUNICIPAL CORPORATIONS

## THE HEAD

**72.**—(1) The warden of a county, the mayor of a city or town and the reeve of a village or township is the head of the council and the chief executive officer of the corporation. Who to be head of council

(2) When the head of the council is absent from the municipality or absent through illness or his office is vacant, the council may by resolution appoint one of its members to act in his place and stead and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council. Acting head of council

(3) The council of any municipality may by by-law appoint a member of the council to act from time to time in the place and stead of the head of the council when the head of the council is absent from the municipality or absent through illness or his office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council. R.S.O. 1970, c. 284, s. 209. Idem

**73.** It is the duty of the head of the council,

Duties of head of council

- (a) to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;
- (b) to oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) to communicate to the council from time to time such information and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. R.S.O. 1970, c. 284, s. 210.

**74.** The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality Mayor may call out posse comitatus

under the same circumstances in which the sheriff of a county may now by law do so. R.S.O. 1970, c. 284, s. 212.

Substitute  
for head of  
council as  
*ex officio*  
member of  
boards, etc.

**75.** The council of any municipality may by by-law, passed with the written consent of the head of the council, appoint a member of the council to act in the place of the head of the council on any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act, except a board of commissioners of police. R.S.O. 1970, c. 284, s. 213.

#### CHIEF ADMINISTRATIVE OFFICER

Chief  
adminis-  
trative  
officer

**76.** The council may by by-law appoint a chief administrative officer, who,

- (a) shall have such general control and management of the administration of the government and affairs of the municipal corporation and perform such duties as the council by by-law prescribes; and
- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law. R.S.O. 1970, c. 284, s. 214.

#### THE CLERK

Appointment  
of clerk, and  
his duties

**77.—**(1) The council shall appoint a clerk, whose duty it is,

- (a) to truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) if required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) to keep the books, records and accounts of the council;
- (d) to preserve and file all accounts acted upon by the council;
- (e) to keep in his office or in the place appointed for that purpose the originals of all by-laws and of all minutes of the proceedings of the council;



- (f) to perform such other duties as may be assigned to him by council.

(2) The council may appoint a deputy clerk who shall have all the powers and duties of the clerk under this and every other Act. Deputy clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties through illness or otherwise, the council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk under this and every other Act. Acting clerk

(4) Notwithstanding subsection (1), on the request of the Archivist, the council may permit the originals of by-laws no longer in force or the operation of which is spent or of minutes of the proceedings of the council to be kept by the Archivist instead of the clerk, provided that a photographic copy of all such documents is kept by the clerk. R.S.O. 1970, c. 284, s. 215. Original by-laws kept by Archivist

→ 78.—(1) Except as otherwise provided in any Act, any person, at all reasonable hours, may inspect any records, books, accounts and documents in the possession or under the control of the clerk, except inter-departmental correspondence and reports of officials of any department or of solicitors for the corporation made to council, board of control or any committee of council, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand to any applicant on payment at the rate of 10 cents for every 100 words or such other rate as the council may fix. Inspection of records, books, etc., in possession of clerk

(2) The clerk shall keep an index book in which he shall enter the number and date of, Index of restricted area by-laws, etc.

(a) every subsisting by-law heretofore passed under section 39 of the *Planning Act* or a predecessor of that section; R.S.O. 1980, c. 379

(b) every by-law hereafter passed under section 39 of the *Planning Act*; and

(c) every other subsisting by-law, and every other by-law hereafter passed, that affects land but does not directly affect the title to land.

(3) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand and under the seal of the corporation Copies certified by clerk to be receivable in evidence

may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1970, c. 284, s. 216.

#### THE TREASURER

Treasurer

**79.**—(1) The council shall appoint a treasurer.

Deputy  
treasurer

(2) The council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer under this and every other Act.

Acting  
treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties through illness or otherwise, the council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer under this and every other Act. R.S.O. 1970, c. 284, s. 218.

Appointment  
of county  
treasurer  
*pro tem*

**80.**—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he considers necessary a treasurer *pro tempore*, who shall hold office until the next meeting of the council, and all acts authorized by the warrant that are performed by him are as valid and binding as if performed by a treasurer.

Security to  
be given

(2) The warden shall, by the warrant, direct that security within the meaning of subsection 94 (2) shall be given by the treasurer *pro tempore* for the faithful performance of his duties and for duly accounting for and paying over all money that comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. R.S.O. 1970, c. 284, s. 219.

To receive  
and take  
care of and  
disburse  
money, etc.

**81.**—(1) The treasurer shall receive and safely keep all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct, and every cheque issued by the treasurer shall be signed by the treasurer and by some other person designated for the purpose by by-law or resolution of the council and such

other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

(2) Notwithstanding subsection (1),

Persons  
authorized  
to sign  
cheques

(a) the council of a local municipality having a population of less than 5,000 and the council of a county may provide that cheques issued by the treasurer may be signed by the treasurer only; and

(b) the council of any other municipality may designate one or more persons to sign cheques in lieu of the treasurer.

(3) The council of any municipality may provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques.

Methods of  
signing  
cheques

(4) The council of a municipality may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and to pay small accounts, subject to such terms and conditions as the by-law may provide.

Petty cash  
fund

(5) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed.

When  
member of  
council may  
be paid  
for work

(6) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the council, unless another disposition of it is expressly provided for by statute. R.S.O. 1970, c. 284, s. 220.

His liability  
limited

**82.** Subject to subsection 81 (4), the treasurer shall,

Bank  
accounts,  
etc.

(a) open an account or accounts in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council;

(b) deposit all money received by him on account of the municipality, and no other money, to the credit of such account or accounts, and no other account; and

- (c) keep the money of the municipality entirely separate from his own money and from that of any other person,

and, notwithstanding subsection 81 (1), the council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. R.S.O. 1970, c. 284, s. 221.

Half-yearly  
statement  
of assets

**83.** Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation. R.S.O. 1970, c. 284, s. 222.

Treasurers'  
returns to  
Ministry

**84.—**(1) The treasurer of every municipality shall in each year within the time prescribed by the Ministry make a return to the Ministry on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Ministry may prescribe, and every such return shall be transmitted by registered mail. R.S.O. 1970, c. 284, s. 223 (1); 1972, c. 1, s. 1.

Offence

(2) For every contravention of this section, the treasurer is guilty of an offence and on conviction is liable to a fine of not more than \$40. R.S.O. 1970, c. 284, s. 223 (2).

Returns by  
Ministry

(3) The Ministry shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1970, c. 284, s. 223 (3); 1972, c. 1, s. 1.

Publication  
of financial  
statements,  
etc.

**85.—**(1) The treasurer of every municipality in every year shall, within the time prescribed by the Ministry after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer, either,

- (a) a copy of the statement of revenue and expenditure, statement of capital operations, the balance sheet, the notes to the financial statements, the auditor's report, and the mill rate information for the current and previous year as contained in the financial review; or
- (b) a summary of the information referred to in clause (a) in such form as the Ministry may prescribe. 1979, c. 63, s. 2.

Inclusion  
with tax  
notice

(2) Where a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection (1), include with such notice the copy or summary and the report.



(3) The council of a municipality may cause to be published in a newspaper having general circulation in the municipality or to be mailed or delivered to each ratepayer in the municipality such information concerning the activities of the municipality as, in the opinion of the council, would be of interest to the ratepayers. R.S.O. 1970, c. 284, s. 224 (2, 3).

Publication  
of informa-  
tion

**86.** Where a treasurer is removed from office or absconds, the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation that may have been deposited by the treasurer to his credit. R.S.O. 1970, c. 284, s. 225.

Provision  
on dismissal  
from office

#### COLLECTORS

**87.—**(1) The council of every local municipality shall appoint as many collectors for the municipality as it considers necessary.

Collectors,  
appointment

(2) Every by-law appointing a collector remains in force until repealed, and it is not necessary to appoint the collector annually.

Appoint-  
ments need  
not be  
annual

(3) The council may assign to a collector the district within which he is to act, and may make regulations governing him in the performance of his duties.

Duties

(4) The same person may be appointed collector for more than one ward or polling subdivision. R.S.O. 1970, c. 284, s. 226.

Jurisdiction

#### AUDITORS AND AUDIT

**88.—**(1) The council of every municipality shall by by-law appoint one or more auditors who shall be persons licensed by the Ministry as municipal auditors and who shall hold office during good behaviour and be removable by the council for cause, and every person so appointed shall, in addition to his duties in respect of the corporation, audit the accounts and transactions of every local board as defined in the *Municipal Affairs Act*, except school boards established under Part III or Part IV of the *Education Act*, or under Part X of the *Regional Municipality of Ottawa-Carleton Act*, or under Part VIII of the *Municipality of Metropolitan Toronto Act*. 1976, c. 69, s. 1.

Appointment  
of auditors

R.S.O. 1980,  
cc. 303, 129,  
439, 314

(2) Where a local board is a local board of more than one municipality, the accounts and transactions thereof shall be audited by an auditor of the municipality that is

Where  
board is  
local board  
of more  
than one  
municipality

liable for a larger portion of the operating costs of the local board than any other municipality, and, in the event of disagreement as to the proper auditor, the matter may be determined by the Ministry on the application of any municipality of which the local board in question is a local board. R.S.O. 1970, c. 284, s. 227 (2); 1972, c. 1, s. 1.

Cost of  
audit

(3) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the municipality and charged back to the local board, and in the event of a dispute as to the amount of the cost the Ministry may upon application finally determine the amount thereof. R.S.O. 1970, c. 284, s. 227 (3); 1972, c. 1, s. 1.

Local  
boards in  
unorganized  
territory

(4) Every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory shall appoint one or more auditors and the provisions of this Act with respect to auditors apply with necessary modifications.

Provision  
to avoid  
duplication  
of audits  
R.S.O. 1980,  
c. 129

(5) Where by any other general or special Act, except Part VIII of the *Education Act*, auditors are required to be appointed or elected by or for any authority within the meaning of this section, the exercise of such power is not mandatory, notwithstanding such Act.

Disqualifi-  
cation of  
persons as  
auditors

(6) No person shall be appointed as an auditor of a municipality who is or during the preceding year was a member of the council or any local board of the municipality or of any other local board the accounts and transactions of which it would as auditor be his duty to audit or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the municipality or any of such local boards other than for services within his professional capacity.

Case of  
county  
auditor  
refusing  
to act

(7) If a person appointed auditor for a county refuses or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. R.S.O. 1970, c. 284, s. 227 (4-7).

Duties of  
auditor

**89.** An auditor shall perform such duties as are prescribed by the Ministry and also such duties as may be required by the council or any local board that do not conflict with the duties prescribed by the Ministry and shall prepare the material to be published by the treasurer under section 85. R.S.O. 1970, c. 284, s. 228; 1972, c. 1, s. 1.

**90.**—(1) The auditor of a municipality has right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the municipality or any local board thereof, and is entitled to require from the members of council and local boards and from the officers of the municipality and its local boards such information and explanation as in his opinion may be necessary to enable him to carry out such duties as are prescribed by the Ministry. R.S.O. 1970, c. 284, s. 229 (1); 1972, c. 1, s. 1.

Right of  
access, etc.

(2) The auditor may require any person to give evidence on oath touching any of such matters and for such purpose has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies as if the taking of the evidence were an inquiry under that Act. R.S.O. 1970, c. 284, s. 229 (2); 1971, c. 49, s. 18.

Auditor  
may take  
evidence on  
oath

R.S.O. 1980,  
c. 411

(3) The auditor is entitled to attend any meeting of members of council or any local board of the municipality and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. R.S.O. 1970, c. 284, s. 229 (3).

Auditor  
may attend  
meetings

**91.** The council of any municipality may provide that all accounts shall be audited before payment. R.S.O. 1970, c. 284, s. 230.

Audit of  
accounts  
before  
payment

**92.** The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collectors, and all accounts chargeable against the corporation, and, where charges are not regulated by law, the council shall allow what is reasonable. R.S.O. 1970, c. 284, s. 231.

The council  
to audit  
finally, etc.

**93.** The Treasurer of Ontario may in his discretion retain in his hands any money payable to a corporation, if it is certified to him by the Ministry that any officer of the corporation whose duty it is to make returns to the Ministry has not done so. R.S.O. 1970, c. 284, s. 232; 1972, c. 1, s. 1.

Money  
payable by  
Province to  
be retained  
if returns  
not made

**94.**—(1) Every treasurer, deputy treasurer and collector and every other officer of the corporation, as the council may require, before entering on the duties of his office shall give annually such security as the council directs for the faithful performance of such duties and for duly accounting for and paying over all money that comes into his hands. R.S.O. 1970, c. 284, s. 233 (1).

Security to  
be furnished  
by officers

Nature of  
securityR.S.O. 1980,  
c. 192

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company within the meaning of the *Guarantee Companies Securities Act* and shall be in such form and on such terms as the Ministry may approve. R.S.O. 1970, c. 284, s. 233 (2); 1972, c. 1, s. 1.

Inspection  
of surety  
bonds

(3) It is the duty of the council, at a meeting held not later than the 15th day of February in every year with respect to those of its officers who continue in office from year to year and at the first meeting after his appointment with respect to any newly appointed officer, to require the production before it of every bond, policy or guarantee contract required under this section. R.S.O. 1970, c. 284, s. 233 (3).

Inspection  
and return  
as to  
security

(4) The council shall forthwith after the production thereof direct where and with whom the bonds, policies and guarantee contracts given under this section shall be deposited for safe-keeping and where the same shall be available for inspection by the auditor, and the auditor shall in his annual report to the Ministry include such information with respect to the same as may be required by the Ministry. R.S.O. 1970, c. 284, s. 233 (4); 1972, c. 1, s. 1.

## Premiums

(5) The premiums payable in respect of any bond, policy or guarantee contract given under this section is payable by the corporation out of its general funds. R.S.O. 1970, c. 284, s. 233 (5).

Notices from  
Ministry  
as to surety  
bonds

(6) The Ministry may upon examination of any return made to it for any municipality under this section report to the council with respect to matters arising out of the return, and as to the necessity for other officers, employees and servants furnishing security, and as to the sufficiency of security furnished as disclosed by the return. R.S.O. 1970, c. 284, s. 233 (6); 1972, c. 1, s. 1.

Local  
boards and  
authoritiesR.S.O. 1980,  
c. 303

(7) This section applies with necessary modifications to the treasurer and every other officer as the board may require of a local board as defined in the *Municipal Affairs Act*, except a school board, and to every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory, except a school board. R.S.O. 1970, c. 284, s. 233 (7); 1972, c. 1, s. 104 (6).

Publication  
of state-  
ments of  
revenues and  
expenditures

**95.** The council of any municipality may, prior to the day fixed for holding nominations, publish a detailed statement signed by the head of the council and the treasurer of the revenues and expenditures for the current



year in the form and manner prescribed by the Ministry.  
R.S.O. 1970, c. 284, s. 234; 1972, c. 1, s. 1.

DUTIES OF OFFICERS RESPECTING OATHS AND  
DECLARATIONS

**96.**—(1) Every member of a council, trustee of a police village and public utility commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 3) and an oath of allegiance (Form 1).  
R.S.O. 1970, c. 284, s. 235 (1).  
Declaration of office of members of council, etc.

(2) Every clerk, treasurer, collector, engineer, commissioner of industries, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 4), but every such person appointed to two or more municipal offices may make one declaration of office as to all of them. 1972, c. 121, s. 12, *part*.  
Municipal officers

(3) Every auditor, before entering upon his duties, shall make and subscribe a declaration (Form 5).  
Auditor's declaration

(4) Except where otherwise provided, the person by whom the oath or declaration is made shall file it in the office of the clerk within eight days after it is made. R.S.O. 1970, c. 284, s. 235 (6, 7).  
Filing of declaration

**97.**—(1) Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within ten days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned. R.S.O. 1970, c. 284, s. 236.  
Declaration of office

(2) Notwithstanding subsection (1), a municipal council or other body to which a person is elected may, for such reasons as it considers appropriate, extend by thirty days the times referred to in subsection (1). 1979, c. 63, s. 3.  
Extension of time

SALARIES, TENURE OF OFFICE AND GRATUITIES

**98.**—(1) When the remuneration of any officer of a corporation is not fixed by law, the council shall fix it.  
Salaries of officers

(2) The council shall give to the clerk for services and duties performed by him under the *Drainage Act* a fair and reasonable remuneration to be fixed by the council.  
Remuneration of clerk for certain services  
R.S.O. 1980, c. 126

Fees for  
copies of  
awards, etc.

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act.

Remunera-  
tion not to  
be settled  
by tender

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made, the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration.

Costs of  
municipality  
in any  
proceeding

(5) Notwithstanding any other Act, in any proceeding to which a municipality is a party, costs adjudged to the municipality shall not be disallowed or reduced merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality performing such services in the discharge of his duty and remunerated therefor by his salary, or for that or any other reason was not entitled to recover any costs from the municipality in respect of the services so rendered, and the costs recovered by or on behalf of the municipality in any such case shall be paid into the general funds of the municipality. R.S.O. 1970, c. 284, s. 237.

Tenure of  
office

**99.**—(1) Subject to subsection (2), all officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the council.

Dismissal  
of officers

(2) No chief administrative officer, clerk, treasurer or engineer shall be dismissed from office except after a hearing by the council or a committee of the whole council if requested by the officer concerned. R.S.O. 1970, c. 284, s. 238.

Retirement  
allowances

**100.**—(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee during his life who has had continuous service for at least twenty years with the municipality or with the municipality and any other municipality or local board as defined in the *Municipal Affairs Act* or any two or more of them and who,

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c. 303

(a) is retired because of age ; or

(b) while in the service of any municipality or local board has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance together with the amount of any pension payments payable to the employee in any year under a pension plan of any municipality or local board will exceed three-fifths of his average annual salary for the preceding three years of his service. R.S.O. 1970, c. 284, s. 239 (1); 1972, c. 1, s. 104 (6).

(2) Where a council grants an annual retirement allowance to an employee under subsection (1), the by-law may include provision for continuing the allowance to the surviving spouse, if any, during his or her life in an amount not exceeding one-half of the annual allowance payable to the employee. R.S.O. 1970, c. 284, s. 239 (2).

(3) A council may grant an annual retirement allowance payable weekly, monthly or otherwise to the surviving spouse of an employee who dies while in the employ of the municipality and who would have been eligible for a retirement allowance under this section had he retired on the day of his death, provided that the amount of such allowance shall not exceed one-half of the amount of the annual allowance that would otherwise have been payable to the employee and subsection (4) applies with necessary modifications. 1972, c. 124, s. 3.

(4) Where a council grants an annual retirement allowance to an employee under subsection (1), any municipality or local board of which he has been an employee may contribute to such allowance by agreement with the municipality granting the allowance.

(5) In subsection (1), "pension payments" means only pension payments that have resulted from the joint contributions of employer and employee, and does not include any such payments that have resulted solely from contributions of the employee.

(6) This section does not apply to an employee who has entered or enters the service of any municipality or local board after the 1st day of January, 1948.

(7) In this section, "employee" has the same meaning as in paragraph 46 of section 208.

(8) No by-law passed under this section shall be repealed.

**101.** The council of every local municipality may pass by-laws for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-

health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the municipality as fire fighters. 1980, c. 74, s. 2.

INVESTIGATION OF CHARGES OF MALFEASANCE, ETC.,  
OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS

Investigation  
by county  
judge of  
charges of  
malfeasance

**102.**—(1) Where the council of a municipality passes a resolution requesting a judge of the county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the council, or an officer or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business, including any business conducted by a commission appointed by the municipal council or elected by the electors, the judge shall make the inquiry and for that purpose has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken. R.S.O. 1970, c. 284, s. 240 (1); 1971, c. 49, s. 18.

R.S.O. 1980,  
c. 411

Fees payable  
to judge

(2) The judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under the *Judicature Act*.

R.S.O. 1980,  
c. 223

Engaging  
counsel

(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel.

Idem

(4) The judge may engage counsel and such other assistants and staff and incur such incidental expenses as he considers advisable for the proper conduct of the investigation or inquiry, and the municipality shall pay the costs thereof. R.S.O. 1970, c. 284, s. 240 (2-4).



## PART VII

GENERAL PROVISIONS APPLICABLE TO ALL  
MUNICIPALITIES

**103.**—(1) Except where otherwise provided, the jurisdiction of every council is confined to the municipality that it represents and its powers shall be exercised by by-law. Jurisdiction of councils

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question, or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. R.S.O. 1970, c. 284, s. 241. By-law not to be quashed because unreasonable

**104.** Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. R.S.O. 1970, c. 284, s. 242. General power to make regulations

**105.** Where the council of any municipality passes a comprehensive general by-law dealing with all or any of such matters within its jurisdiction as the council considers desirable to include therein (which by-law may be known as "The [name of municipality] Municipal Code") and such by-law consolidates and includes therein the provisions of any by-law previously passed by the council, Municipal Code

- (a) the provisions in the comprehensive general by-law shall be deemed to have come into force on the day the original by-law came into force; and
- (b) any condition precedent or subsequent or the approval of any authority external to the council required by law before the original by-law came into force shall, where such condition was satisfied or approval obtained in respect of the original by-law, be deemed to have been satisfied or obtained in respect of the corresponding provision in the comprehensive general by-law in all respects as though the condition had been satisfied or the approval obtained in respect of that provision in the comprehensive general by-law. 1976, c. 69, s. 2.

**106.**—(1) Where the council of a municipality is required by law to hear interested parties or to afford them an Hearings by committee authorized

opportunity to be heard before doing any act, passing a by-law, or making a decision, the council may provide by by-law for a committee of the council to hear such parties or afford them an opportunity to be heard in the place and stead of the council, and, where a hearing is conducted or an opportunity to be heard is afforded by a committee under such a by-law in respect of any matter, the council may do the act, pass the by-law, or make the decision in respect of which the hearing was held or the opportunity for a hearing afforded without being required to hold a hearing or afford an opportunity for a hearing in respect of such matter.

Report by  
committee

(2) Upon the conclusion of a hearing conducted by a committee under a by-law passed under subsection (1), the committee shall as soon as practicable make a written report to the council summarizing the evidence and arguments presented by the parties, the findings of fact made by the committee and the recommendations, if any, of the committee with reasons therefor on the merits of the application in respect of which the hearing has been conducted.

Authority of  
council

(3) After considering the report of the committee, the council may thereupon in respect of such application do any act, pass any by-law or make any decision that it might have done, passed or made had it conducted the hearing itself. 1978, c. 32, s. 14, *part*.

Application of  
R.S.O. 1980,  
c. 484

(4) Where a committee conducts a hearing in respect of any matter pursuant to a by-law passed under this section, and where the decision to be exercised by the council in respect of the matter is a statutory power of decision within the meaning of the *Statutory Powers Procedure Act*, the provisions of sections 5 to 15 and 21 to 24 of the *Statutory Powers Procedure Act* shall be deemed to apply to the committee and to the hearing conducted by it and those sections, except for section 24, do not apply to the council in the exercise of its power of decision in respect of such matter. 1978, c. 32, s. 14, *part*; 1979, c. 63, s. 4.

Council a  
continuing  
body

**107.** Proceedings begun by one council may be continued and completed by a succeeding council. R.S.O. 1970, c. 284, s. 243.

Certain acts  
not to be  
done by  
councils  
after polling  
day

R.S.O. 1980,  
c. 308

**108.—**(1) The council of a local municipality shall not, after the day the poll is held for the election of the new council, or, where all members of council are elected by acclamation, after the day the candidates are declared elected under section 40 of the *Municipal Elections Act*, pass any by-law, except a by-law with respect to an undertaking, work, project, scheme, act, matter or thing that has been approved by the Municipal Board, or resolution for, or that involves, directly

or indirectly, the payment of money other than that provided in the estimates for the current year, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one that the council is required by law to do or is one that the council is authorized to do by a resolution or by-law passed before the day the poll is held or the day the members of council are declared elected under section 40 of the *Municipal Elections Act*, as the case may be. R.S.O. 1980, c. 303

(2) Subsection (1) does not apply if the new council that will take office after the poll or acclamation will be composed of not less than three-quarters of the members of the council as composed at the time of the poll or acclamation. Application of subs. (1)  
R.S.O. 1970, c. 284, s. 244.

**109.**—(1) Subject to subsection (2), but notwithstanding any other provision of this Act or any general or special Act, the fiscal year of every municipality and local board, as defined in the *Municipal Affairs Act*, is the calendar year from the 1st day of January to the 31st day of December and the accounts referred to in section 92 are those of the next preceding fiscal year. Fiscal year  
R.S.O. 1980, c. 303

(2) The fiscal year of every public hospital owned by the corporation of a municipality shall be the fiscal year of a public hospital as prescribed under the *Public Hospitals Act*. Fiscal year for municipal public hospitals  
R.S.O. 1980, c. 410

(3) Notwithstanding the provisions of this or any general or special Act where an estimate of expenditures, revenue or capital or an annual statement or report, including a report of an auditor, in respect of a public hospital mentioned in subsection (2) is required to be prepared by the provisions of any special Act, such estimate, statement or report shall be prepared in respect of the fiscal year as prescribed under the *Public Hospitals Act* and not in respect of the calendar year and the date upon or prior to which such an estimate shall be prepared and certified for the consideration of a board of control or a council of a municipality shall be the 1st day of March in each year, or such other date as the council may by by-law provide, and the date upon or prior to which such annual report or statement shall be prepared and submitted to a board of control or a council of a municipality shall be the 15th day of May or such other date as the council may by by-law provide. Annual statement or report

(4) Notwithstanding the provisions of this or any general or special Act, where the council of a municipality has considered the estimates of a public hospital referred to in Application of s. 164 (1)

subsection (3) and has determined the sum to be levied by it for the purposes of such hospital for the fiscal year of the hospital, that sum shall be deemed to be the sum required by law to be provided by the council for the hospital for purposes of subsection 164 (1). 1977, c. 48, s. 4.

Power to license includes power to prohibit

**110.**—(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it includes the power to prohibit the carrying on of or the engaging in it without a licence.

Power to license or regulate places or things includes power to license and regulate trades, etc.

(2) The power to license, regulate or govern places or things includes a power to license, regulate or govern the trades, callings or businesses for which such places or things are used and the persons carrying on or engaged in them. R.S.O. 1970, c. 284, s. 246 (1, 2).

Power to regulate trades, etc., includes power to regulate hours of operation

(3) Subject to sections 213 and 214 and clause (a) of this subsection, the power to regulate a trade, calling, business or occupation or a person carrying on or engaged in a trade, calling, business or occupation and the power to regulate places or things includes the power to regulate the hours of operation of such trade, calling, business, occupation, places or things.

Exception

(a) Nothing in this subsection confers the power to regulate the hours of operation of a shop as defined in subsection 211 (1). 1975 (2nd Sess.), c. 20, s. 1.

Who to fix amount of licence fee

(4) Except where the power of fixing the fee to be paid for the licence is expressly conferred on a board of commissioners of police, the council of the municipality, where by this or any other Act the council or the board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, may, subject to the limitations in the Act, fix the fee to be paid for the licence and the time for which it shall be in force and may provide for enforcing payment of the licence fee.

Licence fee may be a tax

(5) The licence fee may be in the nature of a tax for the privilege conferred by it.

Discretion as to granting or refusing a licence  
R.S.O. 1980, c. 498

(6) Subject to the *Theatres Act*, the granting or refusing of a licence to any person to carry on a particular trade, calling, business or occupation, or of revoking a licence under any of the powers conferred upon a council or a board of commissioners of police by this or any other Act, is in its discretion, and it is not bound to give any reason for



refusing or revoking a licence and its action is not open to question or review by any court.

(7) Notwithstanding subsection (6), a board of commissioners of police or a council shall not refuse to grant a licence with respect to the carrying on of any business by reason only of the location of such business where such business was being carried on at such location at the time of the coming into force of the by-law requiring such licence. Certain licences not to be refused by reason only of location of business affected

(8) Where a licence is revoked, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted. Refund when licence revoked

(9) Where, under this or any other Act, a board of commissioners of police is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, and for revoking such licences, the board may by by-law authorize the chief of police of the municipality to suspend any such licence for such time and subject to such terms and conditions as the by-law may provide. Suspension of licences

(10) No suspension of a licence by a chief of police is effective after the expiration of two weeks from the date of suspension or after the time of the next meeting of the board after the suspension, whichever occurs first. Idem

(11) Notwithstanding subsection (6), the decision of a board of commissioners of police in refusing or revoking a licence is subject to an appeal therefrom in accordance with the rules of court to the Divisional Court, whose decision is final. R.S.O. 1970, c. 284, s. 246 (3-10). Appeal from revocation of licence

**111.**—(1) Subject to section 119, and to section 6 of the *Ferries Act* and to section 100 of the *Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business. Granting monopolies prohibited R.S.O. 1980, cc. 160, 496

(2) This section does not prevent the council under the powers conferred by paragraph 1 of section 232 from limiting the number of licences and the number of tables to such number as the council considers fit even if the number be limited to one. R.S.O. 1970, c. 284, s. 247. Limiting number of pool and billiard tables and licences

Bonuses  
prohibited

**112.** Notwithstanding any general or special Act, a council shall not grant bonuses in aid of any manufacturing business or other industrial or commercial enterprise. R.S.O. 1970, c. 284, s. 248.

General  
power  
to make  
grants

**113.**—(1) Notwithstanding any special provision in this Act or in any other general or special Act related to the making of grants or granting of aid by the council of a municipality, the council of every municipality may, subject to section 112, make grants, on such terms and conditions as to security and otherwise as the council may consider expedient, to any person, institution, association, group or body of any kind, including a fund, within or outside the boundaries of the municipality for any purpose that, in the opinion of the council, is in the interests of the municipality. 1980, c. 74, s. 3 (1).

Loans,  
guarantees,  
etc.

(2) The power to make a grant includes,

- (a) the power to guarantee a loan and to make a grant by way of loan and to charge interest on the loan;
- (b) the power to sell or lease land for nominal consideration or to make a grant of land, where the land being sold, leased or granted is owned by the municipality but is no longer required for its purposes, and includes the power to provide for the use by any person of land owned or occupied by the municipality upon such terms and conditions as may be fixed by the council;
- (c) the power to sell, lease or otherwise dispose of, at a nominal price, or to make a grant of, any furniture, equipment, machinery, vehicles or other personal property of the municipality or to provide for the use thereof by any person on such conditions as may be fixed by the council; and
- (d) the power to make donations of foodstuffs and merchandise purchased by the municipality for such purpose. 1980, c. 74, s. 3 (2), *part*.

Applica-  
tion

(3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 149 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of the *Ontario Municipal Board Act*. 1975, c. 56, s. 1 (2), *part*.

R.S.O. 1980,  
c. 347

Interpre-  
tation

(4) In this section,

- (a) "land" includes a building or structure or a part thereof;

- (b) "person" includes a municipality as defined in the *Municipal Affairs Act* and includes a metropolitan, regional and district municipality and the County of Oxford. 1980, c. 74, s. 3 (2), *part*. R.S.O. 1980,  
c. 303

**114.** The council of every municipality may provide for, Awards  
and  
competitions

- (a) offering awards and gifts to persons whose actions or achievements are, in the opinion of council, worthy of note; and

- (b) establishing competitions and awarding prizes therefor. 1980, c. 74, s. 4, *part*.

**115.—**(1) The council of every municipality may pass by-laws for providing fellowships, scholarships and other similar prizes and for paying all or part of the costs incurred or to be incurred by any person, including an officer or servant of the municipality, as a result of his attendance at an educational institution or as a result of his enrolment elsewhere in any program or course of instruction, training or education. Fellowships,  
etc. 7

(2) In this section, "costs" includes tuition fees, costs of books and other materials used in connection with a course or program, and costs of food, travel and accommodation. 1980, c. 74, s. 4, *part*. Interpre-  
tation

**116.—**(1) Subject to subsection (2), a municipality or a local board thereof, as defined in the *Municipal Affairs Act*, except a school board, shall not destroy any of its receipts, vouchers, instruments, rolls or other documents, records and papers except, Destruction  
of documents

- (a) after having obtained the approval of the Ministry; or

- (b) in accordance with a by-law passed by the municipality and approved by the auditor of the municipality establishing schedules of retention periods during which the receipts, vouchers, instruments, rolls or other documents, records and papers must be kept by the municipality or local board. R.S.O. 1970, c. 284, s. 249 (1); 1972, c. 1, ss. 1, 104 (6).

(2) Where a by-law has been passed by a municipality under clause (1) (b), copies of its receipts, vouchers, instruments, rolls or other documents, records and papers may be destroyed at any time if the original thereof is subject to a retention period within one of the schedules established by the by-law. R.S.O. 1970, c. 284, s. 249 (2). When copies  
may be  
destroyed

Local boards  
of more  
than one  
municipality

(3) Where a local board is a local board of more than one municipality, the local board may destroy its receipts, vouchers, instruments, rolls or other documents, records and papers,

(a) after having obtained the approval of the Ministry; or

(b) in accordance with a resolution passed by the board and approved by a majority of the municipalities for which the board is a local board if such majority of municipalities is represented by at least one-half of the municipally appointed members on the local board and also if the resolution has been approved by the auditor of the local board.

Retention  
schedules

(4) A resolution passed under subsection (3) shall establish schedules of retention periods during which the receipts, vouchers, instruments, rolls and other documents, records and papers must be kept by the local board.

Interpre-  
tation

(5) For the purposes of subsection (3), a member of a municipal council who serves pursuant to this or any other Act as an *ex officio* member of a local board shall be deemed to be a municipally appointed member of that local board. 1980, c. 74, s. 5.

Interpre-  
tation

**117.—**(1) In this section,

(a) “approved pension plan” means a pension, superannuation or benefit fund or plan to which a municipality or local board makes contribution under any general or special Act, except the *Public Service Superannuation Act*, the *Teachers’ Superannuation Act* and the *Ontario Municipal Employees Retirement System Act*;

(b) “employee” means an employee as defined in paragraph 46 of section 208;

(c) “local board” means a local board as defined in paragraph 46 of section 208;

(d) “optional service” means,

(i) service with any municipality or local board in Canada,

(ii) service with the civil service of Canada or of any province of Canada,

(iii) service with the staff of any board, commission or public institution established

R.S.O. 1980,  
cc. 419, 494,  
348



under any Act of Canada or any province of Canada, or

(iv) war service;

(e) "service" means employment of an employee by a municipality or local board and may include optional service;

(f) "war service" means active service during World War II or the Korean War,

(i) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine, or

(ii) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

providing satisfactory proof of such service is produced;

(g) "year's maximum pensionable earnings" means the Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan*. R.S.O. 1970, c. 284, s. 250 (1); 1976, c. 51, s. 4 (1, 2). R.S.C. 1970, c. C-5

(2) A municipality or local board that makes contribution to an approved pension plan may discontinue contributions to or terminate the provisions of such plan or may transfer the assets thereof to another such plan or to the Ontario Municipal Employees Retirement Fund. R.S.O. 1970, c. 284, s. 250 (2); 1975, c. 56, s. 2 (1). Termination of approved pension plan

(3) Notwithstanding any general or special Act, a municipality or local board shall not make a contribution for the provision of a pension with respect to an employee under an approved pension plan or under the *Ontario Municipal Employees Retirement System Act* that is in excess of an annual amount of 2 per cent of his average annual earnings during the sixty consecutive months during which his earnings as an employee were highest multiplied by the number of years of his service up to thirty-five years and reduced in any year in which he is entitled to a pension under the *Canada Pension Plan* by 0.7 per cent of the lesser of such average annual earnings or the average of the year's maximum pensionable earnings for the year in which he ceases to be employed by the municipality or local board. Maximum pension benefit  
R.S.O. 1980, c. 348

and for each of the two preceding years multiplied by the number of years of his service after the 1st day of January, 1966 up to thirty-five years, but this subsection does not apply so as to reduce any benefit provided under the terms and conditions of an approved pension plan in force on the 31st day of December, 1965, and does not apply where the employee retires having less than ten years of service. 1973, c. 175, s. 2 (2); 1975, c. 56, s. 2 (3); 1976, c. 51, s. 4 (3).

Transfer  
from  
approved  
pension plan

(4) Notwithstanding any general or special Act, where an employee on or after the 1st day of March, 1948,

- (a) has been contributing to an approved pension plan;
- (b) terminates his employment with the municipality or local board; and
- (c) without intervening employment becomes a member of the civil service of Ontario or Canada, the civic service of any other municipality or local board or the staff of any board, commission or public institution established under any Act of the Legislature,

he is entitled, in lieu of a refund of his contributions to the approved pension plan plus any interest thereon, to the pension benefits and any other benefits that would be payable under such plan in respect of his employment with the municipality or local board to the date of such termination as if he had continued in such employment until his death or retirement age, and such municipality or local board shall authorize, on the request of the employee, the transfer of a sum of money equal to the larger of,

- (d) the contributions made by the employee under the approved pension plan, plus any interest thereon; or
- (e) the present value, calculated as of the date of the transfer of such sum of money on the basis of generally accepted actuarial methods, of the pension benefits and any other benefits under the approved pension plan to which the employee is entitled as provided in this subsection,

to any fund or plan maintained to provide pension benefits for members of such civil or civic service or staff of which the employee has become a member, provided that such a transfer is permitted under the terms of the fund or plan to which the transfer is to be made.

(5) Notwithstanding any general or special Act, where a member of, Transfer to approved pension plan

- (a) the civil service of Ontario or Canada ;
- (b) the civic service of any other municipality or local board ; or
- (c) the staff of any board, commission or public institution established under any Act of the Legislature,

on or after the 1st day of March, 1948, becomes an employee of a municipality or local board that makes contributions to an approved pension plan and there is a sum of money at the credit of the member in a superannuation or pension fund or plan maintained for members of such civil or civic service, the municipality may accept the transfer of such sum of money and apply it for the benefit of the employee in accordance with the terms of the approved pension plan.

(6) Where a sum of money is transferred in accordance with subsection (4) or (5) to a fund or plan and the employee or member is entitled to a refund under such fund or plan, only that portion of the sum so transferred that is attributable to contributions made by the employee or member, as determined by the employer responsible for the administration of the fund or plan from which the sum is transferred, may be refunded to the employee or member, and the remainder shall be credited to the fund or plan to which the sum is transferred. R.S.O. 1970, c. 284, s. 250 (5-7). Restriction upon refund

**118.** Where, after the 1st day of June, 1965, a by-law under paragraph 51 of section 210 or section 218 is passed imposing a special rate or levy within a defined area and there are in such defined area lands as defined in the *Assessment Act* that are exempt from taxation, that part of the cost of the work for which the special rate or levy is made that would be chargeable to such exempt lands if they were not exempt from taxation shall be levied against all the rateable property in the municipality. R.S.O. 1970, c. 284, s. 251. Special rates re exempt lands in defined areas  
R.S.O. 1980, c. 31

**119.**—(1) The council of a city may grant to any person, upon such terms and conditions as may be considered expedient, the exclusive right to place and maintain, for any period not exceeding ten years, waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council. Exclusive right to maintain waste-paper boxes on streets

Location  
of boxes

(2) The location of the boxes is subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and the collections therein removed to the satisfaction of the city engineer and as often as he may direct.

Power to  
control and  
collect fees

(3) The council may,

- (a) regulate and control the type of construction of such boxes and from time to time vary and change the locations thereof;
- (b) allow the placing of advertisements thereon and regulate the wording thereof and prohibit the placing of objectionable matter thereon;
- (c) fix and collect, an annual fee from the owner thereof for the privilege granted;
- (d) keep such boxes clean and undertake the removal of the waste deposited therein. R.S.O. 1970, c. 284, s. 252.

Cold storage  
business

**120.** The council of a city may establish and carry on the business of cold storage in connection with or upon the market property of the corporation. R.S.O. 1970, c. 284, s. 253.

Joint works  
and under-  
takings

**121.** The council of a municipality may pass by-laws for entering into and performing any agreement with any other council for fulfilling, executing or completing, at their joint expense and for their joint benefit, any undertaking, work or project within the jurisdiction of the council. R.S.O. 1970, c. 284, s. 254.

Interpre-  
tation

**122.—**(1) In this section, "Crown" means Her Majesty the Queen in right of Ontario and includes any agency, board or commission thereof.

Agreements  
with  
Crown

(2) A municipality and the Crown may enter into and perform agreements on such terms and conditions as may be set out in the agreement,

(a) for the use of,

(i) any of the real and personal property, and

(ii) the services of any of the officers and servants,  
of the municipality or the Crown;

(b) for the supply of any service, under the jurisdiction of the municipality;



(c) for jointly acquiring any real or personal property.

(3) For the purposes of carrying out agreements entered into under this section, the territorial jurisdiction of the council of a municipality is not confined to the municipality that it represents. 1980, c. 74, s. 6. Jurisdiction

**123.** Subject to the limitations and restrictions in this and any other Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor. R.S.O. 1970, c. 284, s. 255. Borrowing powers

**124.**—(1) In this section,

(a) “school board” means a “board” as defined in paragraph 3 of subsection 1 (1) of the *Education Act*; and Interpre-  
tation

(b) “municipality” includes a regional and district municipality and the County of Oxford, but does not include an area municipality within the meaning of any Act establishing a metropolitan, regional or district municipality or of the *County of Oxford Act*.

R.S.O. 1980,  
c. 129

R.S.O. 1980,  
c. 365

(2) Where a school board exercises jurisdiction in all or part of a municipality, the school board may apply to the council of the municipality for the issue and sale of debentures on the credit of the municipal corporation for raising such sums as may be required by the school board for permanent improvements, as defined in paragraph 34 of subsection 1 (1) of the *Education Act*. School boards  
may apply for  
issue and  
sale of  
debentures

(3) An application under subsection (2) shall state the purpose of the proposed borrowing and the nature and the estimated costs of the proposed improvements. Contents of  
application

(4) The council at its first meeting after receiving an application under subsection (2), or as soon as possible thereafter, shall consider and approve or disapprove the application. Duties of  
council

(5) If the council approves the application under subsection (4), the school board shall apply to the Municipal Board for its approval under section 64 of the *Ontario Municipal Board Act* and, if the Municipal Board approves, the council shall pass a by-law authorizing the borrowing of money by the issue and sale of debentures on the credit of the municipal corporation for the purposes stated in the application. Approval by  
O.M.B.  
R.S.O. 1980,  
c. 347

(6) The provisions of any Act that apply to the council of a municipality in respect of its powers to raise money for municipal purposes by the issue and sale of debentures, including any oblig- Application  
of other  
Acts

ation or prohibition imposed in connection therewith, apply with necessary modifications to the council of the municipality where it is passing a by-law for the raising of money by the issue and sale of debentures under this section.

Borrowing  
pending issue  
and sale of  
debentures

(7) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the municipality for the purposes of a school board, the council of the municipality or the school board pending the issue and sale of the debentures may, and the council of the municipality on the request of the school board shall, agree with a bank or person for temporary advances from time to time for the purposes authorized, and the council of the municipality may, or on the request of the school board shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the school board.

Interest on  
temporary  
borrowing

(8) Where the council of a municipality has raised money for a school board under this section by temporary financing pending the sale of debentures, it shall charge the cost of the borrowing to the school board for the period before the sale for which the money is borrowed or for a period of one year, whichever is less.

Application  
of proceeds  
of loan

(9) The proceeds of every advance or loan under subsection (7) shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and the balance shall be transferred to the school board.

Notice of  
principal  
and  
interest

(10) Where the council of a municipality has passed a by-law under this section for issuing debentures, the treasurer of the municipality shall notify the treasurer of the school board in writing before the 1st day of January in each year of the amount of the principal and interest, including any amount required to be raised for a sinking fund or retirement fund, due and payable in that year in respect of the debentures so issued, and the dates on which the payments of such amounts become due.

Amounts to be  
included in  
estimates of  
school board

(11) The amount that the treasurer of the school board receives notice of under subsection (10) shall be included in the estimates of the school board for that year, and the treasurer of the school board shall pay that amount to the treasurer of the municipality on or before the due dates of payment as specified in the notice and such amount may be recovered as a debt due by the school board to the municipality.

Joint and  
several  
liability,  
ranking of  
debentures

(12) All debentures issued under the authority of this section are direct, joint, and several obligations of the municipality and the school board, and, notwithstanding the provisions of any general

or special Act or any differences in date of issue or maturity, all such debentures shall rank concurrently and *pari passu* in respect of payment and interest thereon with all other debentures of the municipality, except as to the availability of any sinking funds applicable to any particular issue of debentures.

(13) A by-law under subsection (5) shall,

Default

(a) in the case of a by-law of a regional or district municipality or of the County of Oxford, provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in that year to the extent that such sums have not been paid over to the municipality by the appropriate school board in accordance with subsection (11);

(b) in the case of a by-law of a county, provide for raising in each year by inclusion with the amounts required for county purposes apportioned under section 365, the sums of principal and interest payable under the by-law in that year to the extent that such sums have not been paid over to the municipality by the appropriate school board in accordance with subsection (11); and

(c) in the case of a by-law of a local municipality, provide for raising in each year by a special rate on all the rateable property in the municipality the sums of principal and interest payable under the by-law in that year to the extent that such sums have not been paid over to the municipality by the appropriate school board in accordance with subsection (11).

(14) The expenses of the municipality in preparing, printing and publishing any by-laws or debentures under this section, and all other expenses incident thereto, may be charged to the school board.

Recovery  
of costs

(15) The assent of the electors of a municipality is not required to a by-law passed by the council of the municipality under subsection (5). 1979, c. 101, s. 1.

Assent of  
electors  
not  
required

**125.**—(1) Where, under this or any other general Act, two or more municipalities are authorized or required jointly to provide moneys for any purpose, and it is necessary to raise such moneys by the issue of debentures, the Municipal Board upon the application of the council of one or more of such municipalities may by order authorize one of such municipalities to raise the whole amount required by the issue of its debentures, or to raise its portion of the moneys and the portion of one or more of the other

Debentures  
for joint  
under-  
takings

municipalities by the issue of its debentures, and may by its order relieve the other municipalities or such other municipalities, as the case may be, from the necessity of issuing debentures.

Annual  
rates

(2) Where, under an order of the Municipal Board under subsection (1), any municipality issues debentures for the portion of the moneys required to be raised by another municipality, the other municipality shall provide and raise by a special rate on all the rateable property in the municipality liable therefor, in each year of the currency of the debentures, a sum sufficient to pay its share of the principal and interest falling due in such year upon such debentures, such share to be determined in the proportion that that municipality's portion of the moneys required to be raised bears to the total amount of the debenture issue.

Payment to  
municipality  
issuing  
debentures

(3) The sum to be raised annually by such other municipality to pay its share of any principal or interest falling due in any year upon any such debentures shall be paid to the treasurer of the municipality that issued the debentures before the day such principal or interest becomes due.

Consent  
required

(4) No order of the Municipal Board under this section shall require a municipality, without its consent, to issue debentures to provide moneys required to be raised by another municipality.

Limited  
application  
of section

(5) This section does not apply where the Act under which the moneys are authorized or required to be raised contains provisions similar in effect to the provisions of this section. R.S.O. 1970, c. 284, s. 256.

Interpreta-  
tion

**126.**—(1) In this section and in section 127, “municipality” means a town, not being a separated town, a village, or a township in a county.

Request to  
county to  
issue  
debentures

(2) Where, under this or any other general Act, a municipality is authorized or required to provide moneys for any purposes, and it is necessary to raise such moneys by the issue of debentures, the council of the municipality may by resolution request the council of the county in which it is situate to raise such moneys by the issue of debentures of the county.

County may  
issue  
debentures

(3) The council of the county shall consider the request at its next meeting following the receipt thereof, and if it approves the request, the council of the county may, without the assent of the electors, issue the debentures.

Proceeds

(4) Where, under subsection (3), a county has raised moneys for the purposes of a municipality by the issue and



sale of debentures, by the hypothecation of debentures, or by temporary borrowings pending the issue and sale of debentures, the county shall pay over such moneys to the municipality from time to time as the municipality requires.

(5) Where, under subsection (3), a county issues debentures, the council of the municipality on whose behalf the debentures are issued shall provide and raise by a special rate on all the rateable property in the municipality, in each year of the currency of the debentures, a sum sufficient to pay the principal and interest falling due in such year upon such debentures, and such sum shall be paid to the treasurer of the county that issued the debentures before the day such principal or interest becomes due. 1974, c. 136, s. 4, *part*.

**127.**—(1) Where, under any general or special Act, a municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the council of the county shall not pass a by-law authorizing the issue of debentures on behalf of such municipality for such purpose unless such assent or concurrence to the passing of the by-law by the council of the county has been obtained.

(2) Nothing in subsection (1) requires the assent of any electors where such assent has been dispensed with under section 63 of the *Ontario Municipal Board Act*. 1974, c. 136, s. 4, *part*. R.S.O. 1980, c. 347

**128.** Where real or apprehended war, invasion or insurrection is proclaimed to exist under the *War Measures Act* (Canada), the meetings of any municipal council may be held at any convenient location within or outside the municipality, and the council of a municipality may acquire and hold such land at such locations and erect such buildings thereon as may be convenient for such purpose and for any other purpose of the municipality. R.S.O. 1970, c. 284, s. 258, *revised*. Acquisition of property during emergency R.S.C. 1970, c. W-2

#### AUTHENTICATION OF BY-LAWS

**129.**—(1) Every by-law shall be under the seal of the corporation, and shall be signed by the head of the council or by the presiding officer at the meeting at which the by-law was passed and by the clerk. How by-laws to be authenticated

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation Proof of seal or signature not required

charged with the custody of it, shall be received in evidence in all courts without proof of the seal or signature.

Omission  
to affix seal

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law, it may be affixed at any time afterwards, and, when so affixed, the by-law is as valid and effectual as if it had been originally sealed.

Certified  
copy of  
by-law

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all courts without proof of the seal or signature. R.S.O. 1970, c. 284, s. 259.

#### CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW

Certificate  
of clerk that  
application  
for by-law  
duly signed

**130.**—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk has certified that the application was sufficiently signed.

Powers  
of clerk  
R.S.O. 1980,  
c. 250

(2) For the purposes of this section, the clerk has all the powers of the clerk under section 15 of the *Local Improvement Act*.

Certificate  
to be  
conclusive

(3) Where the clerk has so certified, his certificate is conclusive that the application was sufficiently signed. R.S.O. 1970, c. 284, s. 260.

### PART VIII

#### VOTING ON BY-LAWS

Interpre-  
tation

**131.** In this Part,

(a) “by-law” includes a resolution and a question upon which the opinion of the electors is to be obtained;

(b) “electors” means the persons entitled to vote on the by-law;

- (c) "judge" means the judge or junior judge of the county or district court of the county or district in which the municipality, the council of which submits the by-law, is situate;
- (d) "proposed by-law" means a by-law submitted for the assent of the electors. R.S.O. 1970, c. 284, s. 261.

**132.**—(1) Where a by-law requires the assent or is sub-<sup>Publication of by-law that requires the assent of the electors</sup>mitted to obtain the opinion of the electors, a copy of the proposed by-law or a statement of the question submitted, as the case may be, shall be published once a week for three successive weeks together with a notice signed by the clerk stating that the copy is a true copy of the proposed by-law or a correct statement of the question submitted, as the case may be, and in the case of a by-law, that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of two weeks after the result of the voting on the by-law has been declared.

(2) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it containing a <sup>Synopsis of by-law may be published</sup>concise statement of its purpose, the amount of the debt or liability to be created or the money to be raised by it, how the same is to be payable and the amount to be raised annually for the payment of the debt and the interest or instalments, if the debt is to be paid by instalments.

(3) The first publication of a proposed by-law or of a <sup>Time of publication</sup>synopsis thereof or of a proposed question under subsection (1) or (2) shall be made not later than one month prior to the election at which the by-law or question is to be submitted for the assent or opinion of the electors.

(4) The Municipal Board may upon application by a <sup>Municipal Board may order submission of by-law or question at other than regular election</sup>municipality order that a by-law or question be submitted to the electors at an election other than a regular election and, subject to such orders and directions as the Municipal Board may give with respect to such election, the provisions of section 92 of the *Municipal Elections Act*, apply with necessary modifications, as if such election were a <sup>R.S.O. 1980, c. 308</sup>new election.

(5) Where more than one by-law or question is to be <sup>By-laws, questions, in one notice</sup>submitted at the same time, all of such by-laws and questions may be included in one notice. 1972, c. 121, s. 13, *part*.

Assent of  
electors,  
what deemed  
to be

**133.** A by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. 1972, c. 121, s. 13, *part*.

Procedure  
in case  
of county  
by-law

**134.**—(1) Where the by-law is proposed to be passed by a county council it shall, subject to subsection 132 (4), be submitted, by the clerk of each town, not being a separated town, village and township within the county at the next regular election for the assent or opinion of the electors of each such municipality and the respective clerks shall upon expiry of the time for applying for a recount of the vote or, where there has been such an application, on the disposition of it by the judge, forthwith certify the result of the vote in his municipality to the clerk of the county who shall certify to the county council the number of votes cast for and against the by-law.

When by-law  
deemed to  
have assent

(2) A by-law of a county shall be deemed to have been assented to by the electors if a majority of the total of the votes cast in all the local municipalities is in favour of the by-law. 1972, c. 121, s. 13, *part*.

Form of  
ballot  
R.S.O. 1980,  
c. 308

**135.** Ballot papers for voting on a by-law shall be in such form as may be prescribed under the *Municipal Elections Act*. 1972, c. 121, s. 13, *part*.

#### PASSING BY-LAWS BY COUNCIL

Cases in  
which  
council  
must pass  
by-law  
assented to  
by electors

**136.**—(1) Subject to subsection (5), where a proposed by-law that the council has been legally required by petition or otherwise to submit for the assent of the electors has received such assent, it is the duty of the council to pass the by-law within six weeks after the voting took place.

Discretion  
of council  
in other  
cases

(2) Subject to subsection (5), in other cases it is not incumbent on the council to pass the by-law, but, if the council determines to pass it, it shall be passed within six weeks after the voting took place and not afterwards. R.S.O. 1970, c. 284, s. 280 (1, 2).

Time within  
which by-  
law cannot  
be passed

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of the voting has been declared or, if within that period an order for a recount has been made, until the result of the scrutiny has been certified by the judge. R.S.O. 1970, c. 284, s. 280 (3); 1972, c. 121, s. 14 (1).

Time  
occupied  
by recount  
not to be  
counted

(4) The time that intervenes between the making of an application for a recount and the final disposition of it



shall not be reckoned as part of the six weeks. R.S.O. 1970, c. 284, s. 280 (4); 1972, c. 121, s. 14 (2).

(5) The Municipal Board may, upon the application of the council, extend the time for passing the by-law beyond such period of six weeks, and such extension of time may be made although the application for the extension is not made until after the expiration of such period of six weeks, and in such case the by-law may be passed within such extended time. R.S.O. 1970, c. 284, s. 280 (5).

#### PROMULGATION OF BY-LAWS

**137.**—(1) The promulgation of a by-law consists of the publication of a true copy of it, with a notice (Form 6) appended thereto, at least once a week for three successive weeks.

(2) Instead of publishing a true copy of the by-law, a synopsis of it may be published, containing a concise statement of its purposes, the amount of any debt or liability to be created or money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments.

(3) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, is valid and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the council. R.S.O. 1970, c. 284, s. 281.

### PART IX

#### QUASHING BY-LAWS

**138.** In this Part, "by-law" includes an order or resolution. R.S.O. 1970, c. 284, s. 282.

**139.**—(1) The Supreme Court upon application of a resident of the municipality or of a person interested in a by-law of its council may quash the by-law in whole or in part for illegality.

(2) Notice of the application shall be served at least seven days before the return day of the motion.

Recognizance (3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf shall enter into a recognizance before a judge of the county or district court of the county or district in which the municipality is situate, with two sureties in the sum of \$100, conditioned to prosecute the application with effect and to pay any costs that may be awarded against the applicant.

Allowance of recognizance (4) The judge may allow the recognizance upon the sureties making proper affidavits of justification and, after it is allowed, the recognizances with the affidavits shall be filed in the office of the Registrar of the Supreme Court.

Deposit in court in lieu of recognizance (5) In lieu of the recognizance, the applicant may pay into court \$100, and the certificate of the payment into court shall be filed in the office of the Registrar.

Application of deposit (6) After the determination of the proceedings, the judge may order that the money paid into court be applied in payment of costs or be paid out to the applicant. R.S.O. 1970, c. 284, s. 283.

Application to quash by-law affecting another municipality **140.**—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law.

No security required from municipality (2) Where the application is made by a municipal corporation, security for costs shall not be required. R.S.O. 1970, c. 284, s. 285 (1, 2).

Inquiry by county or district judge where corrupt practices alleged R.S.O. 1980, c. 308 (3) Where the application is based upon an allegation of a contravention of any of the provisions of section 103 of the *Municipal Elections Act*, either alone or in conjunction with any other ground of objection, the Supreme Court may direct an inquiry as to the alleged contravention to be had before a special examiner or a judge of the county or district court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath. R.S.O. 1970, c. 284, s. 285 (3); 1973, c. 175, s. 3.

Return of evidence to officer of Supreme Court (4) After the completion of the inquiry, the special examiner or the judge shall return the evidence taken before him

to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash.

(5) Where an order directing an inquiry has been made under subsection (3) and a copy of it has been left with the clerk of the municipality, unless the Supreme Court otherwise orders, nothing shall be done under the by-law until the application is disposed of. No act to be done under by-law pending inquiry

(6) In other cases, the Court may direct that nothing shall be done under the by-law until the application is disposed of. R.S.O. 1970, c. 284, s. 285 (4-6). Other cases

**141.** An application to quash, in whole or in part, a by-law, except a money by-law registered under section 156, shall not be entertained unless made within one year after the passing of the by-law, but, if the by-law required the assent of the electors and was not submitted for or did not receive such assent, the application may be made at any time. R.S.O. 1970, c. 284, s. 286. Time for making application to quash

## PART X

### MONEY BY-LAWS

**142.** "Rateable property", when used in this Act or in any by-law heretofore or hereafter passed that directs the levying of a rate on the rateable property in the municipality or any part of it, includes business assessment within the meaning of the *Assessment Act*. R.S.O. 1970, c. 284, s. 287. Interpretation R.S.O. 1980, c. 31

**143.—**(1) A money by-law shall provide that the whole debt and the debentures, if any, to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued, When debentures to be made payable

- (a) if the debt is for railways, harbour works or improvements, gas or water works, the purchase or improvement of parks or the erection of secondary or public school houses, public hospitals and the acquiring of land therefor, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drill-shed or armoury, in thirty years;

- (b) if the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in twenty years;
- (c) if the debt is for the purchase of roadmaking machinery and appliances, in ten years;
- (d) if the debt is for any other purpose, in such term of years as the Municipal Board may approve. R.S.O. 1970, c. 284, s. 288 (1); 1976, c. 69, s. 3.

Principal  
and interest  
payments

(2) A money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Amount to  
be raised  
annually

(3) A money by-law for the issuing of debentures shall provide for raising in each year by a special rate on all the rateable property in the municipality the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act or in accordance with subsection (14). R.S.O. 1970, c. 284, s. 288 (2, 3).

Instalment  
debentures  
and  
debentures  
to refund  
existing  
debentures  
at maturity  
R.S.O. 1980,  
c. 359

(4) Notwithstanding subsection (3), a local municipality having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may by by-law, without the assent of the electors,

- (a) authorize the borrowing of money by the issue of instalment debentures the last instalment of which shall mature not earlier than ten years after the date upon which they are issued and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause (b), and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and
- (b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years



that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a rate or rates imposed on such persons or property as may be specified in the by-law and such rate or rates shall be levied upon the same persons or property in each case. R.S.O. 1970, c. 284, s. 288 (4); 1975, c. 7, s. 2 (2).

(5) The council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*, and, where any debentures issued under the by-law have been sold, pledged or hypothecated by the council, upon again acquiring them, or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. R.S.O. 1970, c. 284, s. 288 (5).

(6) All the debentures shall be issued within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. R.S.O. 1970, c. 284, s. 288 (6); 1976, c. 51, s. 5 (1).

(7) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date.

(8) Notwithstanding the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection (6) and the debentures may bear date before the date the

by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Extension  
of time  
for issue

(9) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Application  
after time  
expired

(10) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Day when  
by-law to  
take effect

(11) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing.

Consolidation

(12) Notwithstanding any other Act, the council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor.

Redemption  
before  
maturity

(13) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the corporation on any date prior to maturity, subject to the following provisions:

Place of  
payment  
and value

1. The by-law and every debenture that is so redeemable shall specify the place of payment and the value at which such debenture may be so redeemed.

Interest

2. The principal of every debenture that is so redeemable shall become due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the amount thereof.

Notice to  
registered  
owner

3. Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.

Publication  
of notice

4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a newspaper of general circulation, if any, in the

municipality and in such other manner as the by-law may provide.

5. Where only a portion of the debenture issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debenture issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date. Order in which debentures to be redeemed
6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. Effect of redemption

(14) Notwithstanding anything in this section, if a municipality will be liable for a portion of the annual carrying charges on a debt intended to be created on behalf of two or more municipalities, such municipality may pass a by-law providing for raising, by a special rate on all the rateable property liable therefor in the municipality in each year of the currency of the debt, its share of the principal and interest falling due in each such year, and the by-law shall provide that such share shall be determined as provided in the Act authorizing the issue of the debentures and need not provide for the raising of a specific sum in each year of the currency of the debt. R.S.O. 1970, c. 284, s. 288 (7-14). Joint municipal projects

(15) On request of the owner of any debenture issued by a local municipality having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*, the treasurer of the municipality may issue and deliver to such owner a new debenture or debentures in exchange therefor, for the same aggregate principal amount, bearing the same rate of interest and maturing on the same date as the debenture so exchanged and bearing all unmatured interest obligations, and the new debenture or debentures shall be deemed to be issued under the same by-law as the debentures so exchanged. R.S.O. 1970, c. 284, s. 288 (15); 1975, c. 7, s. 2 (2). Exchange of debentures permitted  
R.S.O. 1980, c. 359

(16) Any new debenture mentioned in subsection (15) may be registered as to both principal and interest with provision for payment of interest by cheque, or may be payable Fully registered debentures

to bearer with provision for registration as to principal only and have coupons attached for the payment of interest, but in all other respects shall be of the same force and effect as the debenture surrendered for exchange.

Destruction  
of debentures  
surrendered  
for exchange

(17) All debentures surrendered for exchange under subsection (15) shall be cancelled and destroyed in the presence of the treasurer and some other person designated for the purpose by by-law or resolution of the council of the municipality and they shall certify in the Debenture Registry Book that the debentures have been cancelled and destroyed and enter therein particulars of any new debentures issued in exchange.

By-law to  
provide for  
exchange of  
debentures

(18) A money by-law may provide for exchanges of debentures as provided for in subsection (15) on such terms and conditions as to notice or otherwise as the by-law may provide. R.S.O. 1970, c. 284, s. 288 (16-18).

All  
debentures  
rank  
equally

(19) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the municipality except as to the availability of any sinking funds applicable to any particular issue of debentures. 1976, c. 51, s. 5 (2).

Debentures  
payable on a  
fixed date  
subject to  
the annual  
redemption  
by lot of a  
specified  
principal  
amount  
R.S.O. 1980,  
c. 359

**144.** Notwithstanding any other provision of this Act,

(a) a money by-law of a local municipality having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the municipality to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the municipality of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;

interest  
ceases to  
accrue on  
date set for  
redemption

(b) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the municipality for the payment of the principal amount thereof;



- (c) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the municipality at a public meeting of the council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the municipality, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;
- (d) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book;
- (e) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide;
- (f) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the municipality to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and
- (g) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. R.S.O. 1970, c. 284, s. 289; 1975, c. 7, s. 2 (2).

**145.**—(1) Notwithstanding any other provision in this Act or any other Act, where separate debenture by-laws have been passed authorizing the borrowing of sums for two or more purposes, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council may by by-law, hereinafter called a consolidating by-law, provide for borrowing the aggregate of such sums and for issuing one series of debentures therefor.

**Recitals** (2) The consolidating by-law shall clearly specify, by recital or otherwise, in respect of what separate by-laws it is passed.

**Rates need not be imposed by consolidating by-law** (3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

**Consolidating by-law may authorize debentures of different terms of years** (4) A consolidating by-law passed under this section may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided that the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed.

**Reference to separate by-laws not required in debentures** (5) Debentures issued pursuant to a consolidating by-law passed under this section need not refer to the separate by-laws in respect of which the consolidating by-law is passed. R.S.O. 1970, c. 284, s. 290.

**Sinking fund debentures** **146.**—(1) Notwithstanding section 143, a local municipality having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act* may provide in any money by-law for the issuing of debentures that the principal shall be made payable on a fixed date with interest payable annually or semi-annually, in which case the debentures issued under the by-law shall be known as sinking fund debentures. R.S.O. 1970, c. 284, s. 291 (1); 1974, c. 136, s. 5 (r); 1975, c. 7, s. 2 (2).

R.S.O. 1980,  
c. 359

**Amount to be raised annually** (2) The by-law shall provide for the raising in each year during the currency of the debentures, by a special rate on all the rateable property in the municipality, of

(a) a specific amount, sufficient to pay the interest on the debentures; and

(b) a specific amount for the sinking fund which, with interest at a rate not to exceed 5 per cent per annum, compounded yearly, will be sufficient to pay the principal of the debentures at maturity,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act. R.S.O. 1970, c. 284, s. 291 (2).

(3) Every money by-law passed under this section shall provide that the municipality shall deposit the annual amount to be raised under clause (2) (b),

Amounts raised to be deposited with a bank, trust company or credit union

(a) with a chartered bank or a trust company that is registered under the *Loan and Trust Corporations Act*; or R.S.O. 1980, c. 249

(b) subject to the *Credit Unions and Caisses Populaires Act*, with a credit union as defined in that Act, R.S.O. 1980, c. 102

and such amount shall be so deposited on or before the anniversary date in each year of the currency of the debentures.

(4) The bank, trust company or credit union shall receive all specific amounts raised for sinking fund purposes and the income from all the investments of the sinking fund and shall from time to time invest the money so received and may vary any investment.

Powers of bank, trust company or credit union

(5) The bank, trust company or credit union may invest, Authorized investments

(a) in securities in which a trustee may invest under the provisions of the *Trustee Act*; R.S.O. 1980, c. 512

(b) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(c) in such other securities as are authorized by the Lieutenant Governor in Council;

(d) in the debentures to the payment of which the sinking fund is applicable; and

(e) not more than 25 per cent of the total sinking fund at any one time in other debentures of the municipality,

provided that the securities in which the sinking fund or any part thereof is invested shall mature or be redeemable at the option of the holder not later than the maturity date of the debentures to the payment of which the sinking fund is applicable.

(6) The bank, trust company or credit union shall, not later than the 31st day of January in each year, submit to the Ministry and to the auditor of the municipality a financial statement of the sinking fund at the close of the previous calendar year and such

Annual financial statement to be submitted by bank, trust company or credit union

statement shall contain a list of the investments held in the sinking fund.

Surplus  
in sinking  
fund

(7) When, at the 31st day of December in any year, there is a balance in the sinking fund in excess of the amount then required for the retirement of the sinking fund debentures as certified by the auditor, such balance or part thereof shall, upon the written request of the municipality, be applied by the bank, trust company or credit union to the payment of the amount required for such sinking fund in the next succeeding year and the amount of the payment required to be paid to the bank, trust company or credit union in such year in accordance with subsection (3) and the levy for the sinking fund in such year shall be reduced accordingly.

Deficiency  
in sinking  
fund

(8) When, at the 31st day of December in any year, the amount of a sinking fund is less than the amount then required for the retirement of the sinking fund debentures as certified by the auditor, the municipality shall pay to the bank, trust company or credit union an amount sufficient to make up the deficiency in the sinking fund.

Disposition  
of sinking  
fund at  
maturity of  
debentures

(9) At the maturity of the debentures for which the sinking fund was established, the bank, trust company or credit union shall pay to the treasurer of the municipality the amount accumulated in the sinking fund. 1979, c. 101, s. 2.

Term  
debentures

R.S.O. 1980,  
c. 359

**147.**—(1) Notwithstanding any other provisions of this Act, a local municipality having a population of not less than 20,000 as determined under the *Ontario Unconditional Grants Act*, may provide in any money by-law for the issuing of debentures that a portion of the debentures to be issued thereunder shall be payable on a fixed date with interest payable annually or semi-annually, in which case such debentures shall be known as term debentures. 1976, c. 51, s. 7.

Amounts  
to be  
raised  
annually

(2) In respect of the term debentures, the by-law shall provide for raising, by a special rate on all the rateable property in the municipality,

(a) in each year of the currency of the term debentures a sum sufficient to pay the interest on the term debentures; and

(b) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount



to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

(3) The retirement fund for the term debentures shall be administered in all respects in the same manner as a sinking fund established under section 146, and the provisions of subsections 146 (3) to (9) with respect to a sinking fund shall apply with necessary modifications to such retirement fund. 1972, c. 124, s. 4, *part.* Retirement fund

**148.**—(1) The authority conferred upon municipalities by this Act and any other general or special Act to borrow or raise money for any purpose and to issue debentures therefor extends to and shall be deemed always to have extended to include power to borrow and raise such money and to issue such debentures expressed and payable in sterling money of Great Britain or dollars of the United States of America for such principal amount as the council considers necessary to realize the sum required for such purpose. Debentures expressed in foreign currency

(2) Where under any by-law of a municipality debentures issued thereunder are expressed and made payable in sterling or dollars of the United States of America, the council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon and to meet sinking fund payments or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary. R.S.O. 1970, c. 284, s. 292 (1, 2). Annual rates

(3) Every money by-law passed under this section shall provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be Premium to be set aside in reserve fund

set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law. 1974, c. 136, s. 6.

Debentures  
payable in  
foreign  
currency

R.S.O. 1980,  
c. 359

(4) Notwithstanding any other provision of this Act or any other Act, and in addition to all other types of debentures authorized to be issued under this Act, a local municipality having a population of not less than 75,000 as determined under the *Ontario Unconditional Grants Act*, may by by-law, without the assent of the electors but subject to the prior approval of the Lieutenant Governor in Council, authorize the borrowing of money by the issue of debentures payable as to principal and interest and redemption premium, if any, in a currency other than that of Canada, the United States of America or Great Britain as the council of the municipality considers expedient. R.S.O. 1970, c. 284, s. 292 (4); 1975, c. 7, s. 2 (2).

Corporation  
may incur  
debt

**149.**—(1) Subject to the limitations and restrictions in this and any other Act, a corporation may incur a debt for the purposes of the corporation whether under this or any other Act, but shall not incur any debt the payment of which is not provided for in the estimates for the current year unless a by-law of the council authorizing it has been passed with the assent of the electors. R.S.O. 1970, c. 284, s. 293 (1).

Projects  
for which  
corporation  
not deemed  
to incur debt  
payment of  
which is not  
provided for  
in estimates

(2) A corporation shall not be deemed to be incurring a debt, the payment of which is not provided for in the estimates of the current year, when it is a debt payable within the term for which the council was elected at a regular election or with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality,

- (a) premium notes given for fire insurance;
- (b) arrangements to provide pensions under paragraph 46 of section 208;
- (c) grants for retiring allowances under section 100;
- (d) agreements for fire protection under paragraph 1 of section 208;
- (e) agreements for area fire protection under clause (c) of paragraph 24 of section 210;
- (f) agreements respecting policing of the whole or any part of a municipality by the Ontario Provincial Police Force under section 64 of the *Police Act*;

R.S.O. 1980,  
c. 381

- (g) agreements respecting the establishment of health units under section 40 of the *Public Health Act*; R.S.O. 1980,  
c. 409
- (h) agreements for sharing the cost of services of officers and employees of municipalities or local boards;
- (i) agreements respecting maintenance and repair of boundary roads under section 268;
- (j) agreements respecting isolation hospitals under section 76 of the *Public Health Act*;
- (k) agreements for a term not exceeding five years respecting the provision, maintenance or hiring of an ambulance by a board of health under section 34 of the *Public Health Act* when such agreement has been approved by the council of the corporation;
- (l) agreements respecting the maintenance and operation of ambulances under the *Ambulance Act*; R.S.O. 1980,  
c. 20
- (m) agreements respecting homes under the *Homes for the Aged and Rest Homes Act*; R.S.O. 1980,  
c. 203
- (n) agreements respecting water supply under paragraph 2 of section 208;
- (o) agreements respecting the management and operation of systems and services under paragraph 5 of section 208;
- (p) agreements for watering or oiling highways under paragraph 7 of section 208;
- (q) agreements respecting bus franchises under paragraph 97 of section 210;
- (r) agreements for furnishing public bus transportation under paragraph 98 of section 210;
- (s) agreements under the *Power Corporation Act* with Ontario Hydro on its behalf or on behalf of Her Majesty in right of Ontario; R.S.O. 1980,  
c. 384
- (t) agreements respecting matters of employment of officers, servants and employees of the corporation or a local board thereof;
- (u) agreements respecting regional economic development under paragraph 58 of section 208. R.S.O. 1970,  
c. 284, s. 293 (2); 1973, c. 57, s. 19; 1974, c. 3, s. 1; 1980,  
c. 74, s. 7 (1).

## Exceptions

(3) Subsection (1) does not apply so as to require the assent of the electors to a by-law passed,

- (a) under section 151 or paragraph 51 of section 210;
- (b) for providing money for any of the purposes mentioned in paragraph 15, 46, 53, 55, 57 or 59 of section 208, or in subclause 209(b)(ii) or (iii), or in paragraph 50, 83, 84 or 85 of section 210; or
- (c) under the *Local Improvement Act*, the *Drainage Act* or the *Tile Drainage Act*; or
- (d) by the council of a city or separated town for providing such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or
- (e) by the council of any municipality with the approval of the Municipal Board for providing such sum or sums as may be required to pay or defray the cost or share of the cost of any work or improvement that, by the terms of any order of the Canadian Transport Commission or of the Municipal Board, the municipality is or has been authorized or required to undertake or pay, or of any work or improvement that, in the opinion of the Municipal Board, is or has been rendered necessary or expedient owing to the construction of any work or improvement ordered by either of the said boards; but, where any such work or improvement is or has been merely authorized but not required to be undertaken by the municipality, no sum or sums may be provided hereunder unless the work was undertaken with the approval of the Municipal Board; or
- (f) by the council of an urban municipality for providing such sum as may be required for the purchase of a site in the municipality for an armoury or drillshed for any militia or volunteer corps having its headquarters in the municipality; or
- (g) for providing money for any of the purposes mentioned in section 23 of the *Public Libraries Act*; or
- (h) for providing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or
- (i) under section 311; or

R.S.O. 1980,  
cc. 250, 126,  
500

R.S.O. 1980,  
c. 414



- (j) for providing any sum or incurring any debt that under the *Public Health Act* may be provided or incurred without the assent of the electors; or R.S.O. 1980,  
c. 409
- (k) under section 40 of the *Public Health Act*; or
- (l) by the council of a county; or
- (m) pursuant to section 17 of the *Housing Development Act* respecting the acquisition of land for housing purposes; or R.S.O. 1980,  
c. 209
- (n) by the council of a local municipality for providing money for the paving or repaving of highways and the construction, reconstruction or reflooring of bridges, under the jurisdiction of the council of the municipality or under the joint jurisdiction of the council of the municipality and the council of another municipality; or
- (o) by the council of a local municipality with respect to an agreement under section 24 of the *Planning Act* or sub-section 217 (34) of this Act; R.S.O. 1980,  
c. 379
- (p) under section 113 in respect of public hospitals, including municipal hospitals, public sanatoria, or municipal isolation hospitals and nurses' residences therewith;
- (q) under section 113 in respect of the maintenance or operation of a public park outside the municipality;
- (r) under section 113 in respect of the Royal Botanical Gardens; or
- (s) for providing money for the acquisition of land and the erection of buildings required for the purpose of a fire department and for the acquisition and installation of fire engines, apparatus and appliances for use in connection with the fire-fighting and fire protection services offered by the fire department. R.S.O. 1970, c. 284, s. 293 (3); 1972, c. 124, s. 5; 1973, c. 83, s. 3; 1976, c. 69, s. 4; 1977, c. 48, s. 5; 1979, c. 63, s. 5; 1980, c. 74, s. 7 (2, 3).

**150.—**(1) A municipal corporation with the assent of the electors may enter into a contract for the supply of any service of a public utility as defined in the *Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale or to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may with the like assent renew such contract from time to time for such further term of years as the Municipal Board may approve. Contracts for supply of public utility  
R.S.O. 1980,  
c. 303 R.S.O. 1970, c. 284, s. 294 (1); 1972, c. 1, s. 104 (6).

Where particular areas only are benefitted

(2) Where a municipal corporation enters into a contract for the supply of a public utility for its use and such use is confined to a particular area of the municipality, the council may levy a special annual rate on all the rateable property in such area to defray the cost thereof. R.S.O. 1970, c. 284, s. 294 (2).

Special power of county to borrow

**151.**—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum that the council is by this or any other Act expressly authorized to borrow without the assent of the electors.

Passing of by-law

(2) Subject to subsection (3), the by-law shall be passed at a meeting specially called for the purpose of considering it and held not less than six weeks after the first publication of a notice of the day appointed for the meeting, which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed.

Adjourned meeting

(3) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned. R.S.O. 1970, c. 284, s. 295.

When rate of interest may be varied

**152.**—(1) If the council of a municipality is of the opinion that the current rate of interest so differs from the rate of interest payable on any municipal debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be provided under the by-law under which such debentures were issued, the council may, without the assent of the electors, pass a by-law to amend such by-law so as to provide for,

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special assessments and levies;
- (c) such other changes in the by-law or any other by-law as to the council may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor. 1976, c. 69, s. 5 (1).

(2) Notwithstanding subsection (1), the council of a municipality having a population of less than 20,000 as determined under the *Ontario Unconditional Grants Act*, shall not pass a by-law under the provisions of subsection (1) until the approval of the Municipal Board has first been obtained.

Where  
Municipal  
Board  
approval  
required  
R.S.O. 1980,  
c. 359

(3) Notwithstanding subsection (1), the council of a municipality shall not pass a by-law under the provisions of subsection (1) until the approval of the Municipal Board has first been obtained where the by-law represents an increase of more than one-half of 1 per cent in terms of net borrowing cost on any municipal debentures that remain unsold or undisposed of. 1976, c. 69, s. 5 (2).

Idem

(4) For the purposes of this section, the hypothecation of debentures under section 185 at any time heretofore or hereafter made does not constitute a sale or other disposal thereof.

Hypothecation not a  
sale under  
this section

(5) The council may by one by-law authorized under subsection (1) amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Consolidation  
of debentures

(6) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. R.S.O. 1970, c. 284, s. 296 (2-4).

Special  
assessments  
and levies

**153.**—(1) Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

Repeal of  
by-law, when  
part only of  
money  
raised

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1970, c. 284, s. 297.

When to  
take effect

**154.** Subject to section 153, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation that has been directed to be applied to such payment. R.S.O. 1970, c. 284, s. 298.

Until debt  
paid certain  
by-laws  
cannot be  
repealed

Penalty for neglect of officer to carry out by-law

**155.** Every officer of a corporation, whose duty it is to carry into effect any of the provisions of a money by-law, who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 284, s. 299.

#### REGISTRATION OF MONEY BY-LAWS

Money by-laws may be registered

**156.**—(1) Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the land registry division in which the county town is situate and, in the case of a local municipality, in the land registry division in which it is situate or, if the municipality comprises parts of two or more land registry divisions, in either of them.

Application to quash registered by-law, when to be made  
R.S.O. 1980, cc. 347, 126, 250

(2) Subject to section 61 of the *Ontario Municipal Board Act*, every by-law, registered in accordance with subsection (1) or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed unless within one month after the registration in the case of by-laws passed under the *Drainage Act* or the *Local Improvement Act* and, in the case of other by-laws, within three months after the registration an application or action to quash the by-law is made to or brought in a court of competent jurisdiction and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such land registry office within such period of three months, or one month, as the case may be.

Time when by-law to be valid and binding

(3) After the expiration of the period prescribed by subsection (2), if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing part of by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection (2), but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, after the expiration of that period is valid and binding according to its terms.

Dismissal of application

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered and, after such dismissal and the expiration of the period



prescribed by subsection (2), if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms.

(6) Nothing in this section makes valid a by-law that requires but has not received the assent of the electors or a by-law where it appears on the face of it that any of the provisions of subsections 143 (1) and (3) have not been substantially complied with. <sup>Illegal by-laws not validated</sup>

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1970, c. 284, s. 300. <sup>Failure to register</sup>

**157.** The Lieutenant Governor in Council may make such regulations as he considers necessary for carrying out the purposes of this Part. R.S.O. 1970, c. 284, s. 301. <sup>Regulations</sup>

## PART XI

### YEARLY RATES AND ESTIMATES

**158.** The council of every local municipality in each year shall levy in the manner set out in the *Ontario Unconditional Grants Act*, on the whole of the assessment for real property and business assessment, according to the last revised assessment roll, a sum equal to the aggregate of the sums adopted under section 164. 1975, c. 8, s. 1. <sup>Rates R.S.O. 1980, c. 359</sup>

**159.**—(1) Notwithstanding section 158, the council of every local municipality may by by-law passed before the adoption of the estimates in any year provide that in that year and in each succeeding year the council may, before the adoption of the estimates for the year, levy on the whole of the assessment for real property according to the last revised assessment roll a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the preceding year on residential real property of public school supporters, and such by-law shall remain in force from year to year until it is repealed and any by-law repealing such by-law shall be effective only at the end of any year. <sup>Levy authorized before estimates adopted</sup>

(2) Where the council of a local municipality has not provided for taking the assessment of business during the same year in which the rates of taxation thereon are to be levied, the council, notwithstanding section 158, may by by-law passed before the adoption of the estimates in any year provide that in that year and in each succeeding year the council may, before the adoption of the estimates for the year, levy on the whole of the business assessment <sup>Business assessment</sup>

according to the last revised assessment roll a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the preceding year on business assessment of public school supporters, and such by-law shall remain in force from year to year until it is repealed and any by-law repealing such by-law shall be effective only at the end of any year. R.S.O. 1970, c. 284, s. 303 (1, 2).

Certification  
by clerk of  
assessment  
roll as last  
returned  
R.S.O. 1980,  
c. 31

(3) Where the regional registrar of the Assessment Review Court has not certified in any year in accordance with subsection 36 (1) of the *Assessment Act* the last revised assessment roll of any local municipality for taxation in the following year, the clerk of the municipality may, before the 1st day of February in such following year, certify that the assessment roll last returned to him as altered, amended and corrected by him pursuant to section 63 of the *Assessment Act* is the last revised assessment roll for the purpose of any levy made under this section in such year and when the clerk so certifies, the assessment roll last returned to him, as altered, amended and corrected by him, shall be deemed to be the last revised assessment roll for the purpose of any levy made under this section in such year. 1973, c. 175, s. 4.

Levy under  
s. 158 to be  
reduced

(4) Where in any year a levy is made under this section, the amount required to be raised in that year by levy under section 158 shall be reduced by the amount to be raised by the levy under this section.

Application  
provisions  
re levy and  
collection of  
taxes

(5) The provisions of this Act with respect to the levy of the yearly rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section. R.S.O. 1970, c. 284, s. 303 (3, 4).

Universities,  
etc., liable  
to tax

**160.**—(1) Notwithstanding any general or special Act, the council of a local municipality in which there is situate,

(a) a university designated by the Minister of Colleges and Universities; or

(b) a college of applied arts and technology,

may pass by-laws to levy an annual tax payable on or after the 1st day of July upon such university or college, not exceeding the sum of \$50 a year for each full-time student enrolled in such university or college in the year preceding the year of levy, as determined by the Minister of Colleges and Universities. 1971, c. 81, s. 1 (1), *part*; 1973, c. 83, s. 4 (1); 1975, c. 8, s. 2 (1).

(2) For the purposes of subsection (1), the Ryerson Polytechnical Institute shall be deemed to be a college of applied arts and technology. 1971, c. 81, s. 1 (1), *part*.  
Ryerson Polytechnical Institute

(3) Notwithstanding any general or special Act, the council of a local municipality in which there is situate a correctional institution designated by the Minister of Correctional Services or a training school designated by the Minister of Community and Social Services, may pass by-laws to levy an annual amount payable on or after the 1st day of July, upon such institution or school, not exceeding the sum of \$50 a year for each resident place in such institution or school as determined by the Minister of Correctional Services or the Minister of Community and Social Services respectively. 1973, c. 83, s. 4 (2), *part*; 1974, c. 136, s. 7 (1); 1975, c. 8, s. 2 (2).  
Annual levy on correctional institutions, etc.

(4) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate a public hospital or provincial mental health facility designated by the Minister of Health, may pass by-laws to levy an annual amount payable on or after the 1st day of July upon such institution, not exceeding the sum of \$50 a year for each provincially rated bed in such public hospital or provincial mental health facility as determined by the Minister of Health. 1973, c. 83, s. 4 (2), *part*; 1975, c. 8, s. 2 (3).  
Annual levy on public hospitals, etc.

(5) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate a facility under the *Developmental Services Act*, designated by the Minister of Community and Social Services, may pass by-laws to levy an annual amount, payable on or after the 1st day of July upon such facility, not exceeding the sum of \$50 a year for each provincially rated bed as determined by the Minister of Community and Social Services. 1974, c. 136, s. 7 (2), *part*; 1975, c. 8, s. 2 (4).  
Annual levy on facilities for the mentally retarded  
R.S.O. 1980, c. 118

(6) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate a provincial education institution designated by the Minister under whose jurisdiction such institution falls, may pass by-laws to levy an annual amount payable on or after the 1st day of July upon such institution, not exceeding the sum of \$50 a year for each place in such institution as determined by the aforesaid Minister. 1975, c. 8, s. 2 (6), *part*.  
Annual levy on provincial educational institutions

(7) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate an agricultural research station designated by the Minister  
Annual levy on agricultural research stations

of Agriculture and Food, may pass by-laws to levy upon such research station an annual amount, payable on or after the 1st day of July, not to exceed,

(a) \$12.35 per hectare for each of the first forty hectares occupied by each such research station and \$5 per hectare for each hectare in excess of forty hectares occupied by each such research station up to 4,000 hectares and \$1.25 per hectare in excess of 4,000 hectares occupied by each such station; or

(b) \$100,

whichever is greater. 1975, c. 8, s. 2 (6), *part*; 1978, c. 87, s. 40 (1).

Agreement  
for muni-  
cipal services  
authorized

(8) A municipality in which an institution designated under subsection (3), (4), (5), (6) or (7) is situate may enter into an agreement with one or more municipalities for the providing of municipal service or services to such institution. 1974, c. 136, s. 7 (3), *part*; 1975, c. 8, s. 2 (9).

Minister  
may direct  
agreement be  
entered into

(9) The Minister may direct a municipality in which an institution designated under subsection (3), (4), (5), (6) or (7) is situate to enter into an agreement with another municipality for the providing of any municipal service or services to such institution on such terms as the Minister may stipulate. 1974, c. 136, s. 7 (3), *part*; 1975, c. 8, s. 2 (10).

Application  
to O.M.B.

(10) Where the Minister has directed that an agreement be entered into under subsection (9) and the municipalities fail to reach agreement within sixty days after the Minister's direction, either of such municipalities or the Minister may apply to the Municipal Board and the Board shall settle the terms and conditions of such agreement. 1973, c. 83, s. 4 (2), *part*.

Termination  
of existing  
agreements

(11) Where a municipality has entered into an agreement under subsection (8) or (9), the Province may terminate any agreement between the Province and such municipality for the provision of any service or services to institutions designated under subsection (3), (4), (5), (6) or (7). 1973, c. 83, s. 4 (2), *part*; 1974, c. 136, s. 7 (4); 1975, c. 8, s. 2 (11).

Equalized  
assessment  
of muni-  
cipality  
deemed  
increased

(12) The equalized assessment of a municipality that levies under this section shall be deemed for apportionment purposes other than for school purposes, county purposes, or for apportionment between merged areas, to be increased



by an amount that would have produced the amount levied under this section by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year, by the total equalized commercial and industrial assessment for the preceding year, times 1,000.

(13) In determining the taxes levied on commercial and industrial assessment under subsection (12), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*. 1974, c. 136, s. 7 (5).

Exclusion of  
taxes added  
to collector's  
roll under  
R.S.O. 1980,  
c. 31, s. 33

(14) For the purposes of subsection (12) "merged area" means, where a municipality referred to in subsection (12) is situate within a regional or district municipality, merged area as defined in the Act establishing the regional or district municipality and, for the purposes of this subsection and subsection (12), the County of Oxford shall be deemed to be a regional municipality. 1973, c. 83, s. 4 (2), *part*; 1975, c. 8, s. 2 (12).

Interpre-  
tation

(15) The clerk of every local municipality that levies under this section shall forthwith transmit, to each body for which the local municipality levies a rate, except a school board or county, a statement of the amount by which the assessment of the municipality is deemed to be increased under subsection (12). 1973, c. 83, s. 4 (2), *part*; 1975, c. 8, s. 2 (13).

Notification  
of amount  
of assess-  
ment increase

(16) The council of a municipality that levies under this section in each year shall allocate a portion of the amount levied to each of the bodies for which the municipality levies a rate, other than a school board, in the proportion that the taxes levied in the preceding year on commercial and industrial assessment for each such body bears to the total taxes levied in the preceding year on commercial and industrial assessment for all purposes other than school purposes. 1973, c. 83, s. 4 (2), *part*; 1974, c. 136, s. 7 (6).

Allocation  
of levy

(17) For the purposes of subsection (16), where municipal boundaries have been adjusted or where major changes in service responsibilities between upper and lower tier municipalities have taken place in the year, the estimated taxes to be levied in the current year shall be deemed to be the taxes levied in the preceding year. 1974, c. 136, s. 7 (7).

Where  
municipal  
boundaries  
adjusted,  
etc.

(18) In determining taxes levied on commercial and industrial assessment under subsection (16), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*. 1975, c. 8, s. 2 (14).

Exclusion of  
taxes added  
to collector's  
roll under  
R.S.O. 1980,  
c. 31, s. 33

Reduction  
for purposes  
of levy  
under s. 158  
and under  
R.S.O. 1980,  
c. 359; s. 6

(19) Where a municipality allocates an amount under subsection (16) such amount shall be deducted from the requisition of each such body and the net amount shall be the amount included in the levy of the municipality for purposes of section 158 of this Act and section 6 of the *Ontario Unconditional Grants Act*. 1973, c. 83, s. 4 (2), *part*; 1975, c. 8, s. 2 (15).

Returns by  
telegraph  
and  
telephone  
companies

**161.**—(1) Every telegraph and telephone company doing business in Ontario shall, on or before the 1st day of March in each year, transmit to the clerk of each local municipality in which the company does business, a statement in writing of the amount of the gross receipts of the company in such municipality for the next preceding year ending on the 31st day of December. 1972, c. 124, s. 6, *part*.

Apportion-  
ment of gross  
receipts

(2) In determining the amount of the gross receipts of a telephone company in each local municipality under subsection (1), a telephone company shall apportion the total gross receipts of the company in all such municipalities to each municipality in the proportion that the number of telephones connected to the company's system in each municipality bears to the total number of telephones connected to the company's system in all such municipalities as of the 31st day of December of the year in respect of which the statement is transmitted.

What  
constitutes  
gross  
receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls. 1973, c. 83, s. 5, *part*.

Receipts  
from  
traffic  
agreement

(4) In addition to the statement to be submitted under subsection (1), every telephone company that is entitled to receipts from another telephone company under a traffic agreement for any year ending the 31st day of December shall, on or before the 1st day of March of the following year, transmit to the clerk of each local municipality to which any portion of such receipts is attributable, a statement in writing, setting out the amount of such receipts attributable to that local municipality.

Returns

(5) For the purpose of enabling a company to arrive at the amount of receipts attributable to a local municipality under subsection (4), each telephone company which makes payment to another telephone company under the terms of a traffic agreement shall compile a return in writing showing the name of each local municipality in Ontario in which it operates, the number of telephones connected to its system

in each such municipality, and the total number of telephones connected to its system in all such municipalities as at the last preceding 31st day of December and shall on or before the 14th day of February in the following year transmit the return to the company to which it has made such payment and a copy of the said return to the clerk of each municipality cited in the return.

(6) Each telephone company receiving a return from another telephone company under subsection (5) shall attribute the receipts acquired during the next preceding year ending the 31st day of December under its traffic agreement with such other company to each local municipality specified in the return in the ratio that the number of telephones shown on the return for each such municipality bears to the total number of telephones shown on the return and the amount so attributed shall be the amount referred to in subsection (4).

Manner of  
attributing  
receipts

(7) A traffic agreement between two telephone companies, each of which connects to more than one other telephone company in Ontario for the purpose of toll traffic, shall be deemed not to be a traffic agreement for the purposes of subsections (4), (5) and (6).

Proviso

(8) The Lieutenant Governor in Council may make regulations prescribing the items to be included or excluded in calculating and ascertaining receipts under a traffic agreement for the purposes of subsections (4) and (6) and a regulation made under this subsection shall, if it so provides, be effective with reference to a period before it was filed. 1974, c. 136, s. 8 (1), *part*.

Regulations

(9) For the purposes of subsection (4), a telephone company that is entitled to receipts from another telephone company under a traffic agreement means a telephone company that is entitled to receive the net balance of the long distance revenues collected under the terms of a traffic agreement after the commissions and associated claims payable under that agreement have been settled.

Interpre-  
tation

(10) For the purposes of subsection (5), a telephone company which makes payment to another telephone company under the terms of a traffic agreement means a telephone company which transmits to another telephone company pursuant to the terms of a traffic agreement the net balance of the long distance revenues collected under the terms of that traffic agreement after the commissions and associated claims payable under the agreement have been settled.

Idem

(11) For the purposes of subsection (7), toll traffic means traffic for which a subscriber is charged according to a long distance tariff. 1975, c. 56, s. 3 (1).

Idem

- Rate of tax** (12) The council of every local municipality shall levy on each company from which a statement is received under subsection (1), at the same time as a levy is made under section 158 of this Act or under section 6 of the *Ontario Unconditional Grants Act*, an annual tax of an amount equal to 5 per cent of the total of the gross receipts of such company as shown on the statement provided under subsection (1). 1973, c. 83, s. 5, *part*; 1975, c. 7, s. 2 (2).
- R.S.O. 1980, c. 359**
- Idem** (13) In each year the council of each local municipality shall, at the same time as a levy is made under section 158 of this Act or under section 6 of the *Ontario Unconditional Grants Act*, levy on each company from which a statement is received under subsection (4) an annual tax of an amount equal to 5 per cent of the total of the traffic agreement receipts of such company as shown on the statement. 1974, c. 136, s. 8 (1), *part*; 1975, c. 7, s. 2 (2).
- Idem** (14) Notwithstanding subsection (12), where there are less than 2,000 telephones connected to a company's system the annual tax referred to in subsection (12) shall be 3 per cent in 1973 and 4 per cent in 1974. 1973, c. 83, s. 5, *part*; 1974, c. 136, s. 8 (2).
- Idem** (15) Notwithstanding subsection (12), where there are less than 4,000 telephones connected to a company's system the annual tax referred to in subsection (12) shall be 4 per cent in 1975 and 1976 and 5 per cent in 1977 and each year thereafter. 1974, c. 136, s. 8 (3).
- Levy before estimates adopted** (16) Section 159 applies with necessary modifications to an annual tax levied by any local municipality under this section, except that the amount which may be levied against any company pursuant to this subsection shall not exceed 50 per cent of the total annual tax levied by such local municipality against that company in the next preceding year under subsections (12) and (13), and no levy may be made pursuant to this subsection in any year unless the municipality has by by-law provided generally for a levy before the adoption of the estimates for that year. 1975, c. 56, s. 3 (2).
- How tax collectable** (17) Any tax levied under this section is collectable in the same manner as municipal taxes are collectable and is a special lien under section 369 on all of the lands of the company in the municipality. 1973, c. 83, s. 5, *part*.
- Equalized assessment of municipality deemed increased** (18) The equalized assessment of a municipality that levies a tax under this section shall be deemed for apportionment purposes other than for separate school purposes or county purposes, or for apportionment between merged areas, to be increased by an amount that would have



produced the amount levied under this section by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes on the commercial and industrial assessment of public school supporters, in the preceding year, by the total equalized commercial and industrial assessment of public school supporters for the preceding year, times 1,000.

(19) In determining the taxes levied on commercial and industrial assessment under subsection (18), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*. 1974, c. 136, s. 8 (4).

Exclusion  
of taxes  
added to  
collector's  
roll under  
R.S.O. 1980,  
c. 31, s. 33

(20) For the purposes of subsection (18) "merged area" means, where a municipality referred to in subsection (18) is situated within a regional or district municipality, merged area as defined in the Act establishing the regional or district municipality. 1973, c. 83, s. 5, *part*.

Interpre-  
tation

(21) The clerk of every municipality that levies a tax under this section shall, on or before the 15th day of March in each year, transmit to each body for which the municipality levies a rate, except a separate school board and a county council, a statement of the amount by which the assessment of the municipality is deemed to be increased under subsection (18), and where a municipality has, in the preceding year, levied a rate on commercial and industrial assessment in a defined area of the municipality only, the statement of that municipality shall also show,

Notifica-  
tion of  
amount of  
assessment  
increase

- (a) the rates levied in the preceding year for all purposes on the commercial and industrial assessment of public school supporters, including the rates levied on such assessment in defined areas of the municipality only;
- (b) the whole of the commercial and industrial assessment of public school supporters according to the last revised assessment roll for the preceding year;
- (c) the commercial and industrial assessment of public school supporters subject to rates levied on assessment in defined areas of the municipality only;
- (d) the total amount levied in the preceding year for all purposes on the commercial and industrial assessment of public school supporters, including the amounts levied on such assessment in defined areas of the municipality only;

(e) the amount levied pursuant to this section in the preceding year; and

(f) the rate determined pursuant to subsection (18) for purposes of calculating the amount that would have produced the amount mentioned in clause (e). 1976, c. 51, s. 8.

Allocation  
of tax

(22) The council of the municipality shall allocate a portion of the tax levied under subsections (12) and (13) to each of the bodies for which the municipality levies a rate, other than a separate school board, in the proportion that the taxes levied in the preceding year on commercial and industrial property for each such body bears to the total taxes levied in the preceding year on commercial and industrial property for all purposes other than separate school purposes. 1973, c. 83, s. 5, *part*; 1974, c. 136, s. 8 (6).

Where muni-  
cipal  
boundaries  
adjusted,  
etc.

(23) For the purposes of subsection (22), where municipal boundaries have been adjusted or where major changes in service responsibilities between upper and lower tier municipalities have taken place in the year, the estimated taxes to be levied in the current year shall be deemed to be the taxes levied in the preceding year. 1974, c. 136, s. 8 (7).

Reduction for  
purposes of  
levy under  
s. 158 and  
under  
R.S.O. 1980,  
c. 359

(24) The amount allocated to each body under subsection (22) shall be deducted from the requisition of each such body making an apportionment to the municipality and the net amount shall be the amount included in the levy of the municipality for purposes of section 158 of this Act and section 6 of the *Ontario Unconditional Grants Act*. 1973, c. 83, s. 5, *part*; 1975, c. 7, s. 2 (2).

Where rates  
to be levied  
on full  
values

**162.**—(1) Notwithstanding any other provision in this Act or any other general or special Act, or in any order of the Municipal Board, or in any municipal by-law or resolution, or in any contract, or other instrument, a municipal rate levied for any of the purposes set out in section 209 or for welfare assistance purposes or for any educational purpose included in the county levy shall be levied upon the full value of all the rateable property in the municipality, and no fixed assessment or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of the *Assessment Act*.

R.S.O. 1980,  
c. 31

Fixed  
assessment  
exemptions  
to be  
included

(2) The council of a county in levying a rate for any of the purposes set out in subsection (1) shall add to the amount of the equalized assessment of each local municipality within the county any amounts exempted therefrom by reason of a fixed assessment. R.S.O. 1970, c. 284, s. 305.

Federation  
of  
Agriculture,  
special rate

**163.**—(1) The council of a local municipality may by by-law assess and levy a special rate not exceeding one-half of

one mill upon the ratepayers of the local municipality who are entered on the assessment roll in respect of land assessed as farm land as the annual membership fees of such persons in the Federation of Agriculture. 1976, c. 69, s. 6 (1).

(2) A by-law passed under subsection (1) remains in force until amended or repealed, and it is not necessary to pass such by-law annually. 1976, c. 69, s. 6 (3).

By-law  
remains in  
force until  
repealed

(3) Any person liable to a special rate under a by-law passed under subsection (1) may, within thirty days after delivery of the notice of taxes under section 379, notify in writing the clerk that he objects to the assessment and levy by the by-law authorized by subsection (1), and thereupon the clerk shall amend the collector's roll by striking out such assessment and levy in respect of such person and shall write his name or initials against such amendment and deliver a notice of taxes amended accordingly to such person.

How special  
rate may  
be avoided

(4) The rate mentioned in subsection (1) shall be assessed, levied and collected in the same manner as local rates and shall be similarly calculated upon the assessments as finally revised and shall be entered in the collector's roll in a special column the heading whereof shall be designated "Federation of Agriculture Membership Fees", but does not form a charge upon land and is not subject to penalty for non-payment. R.S.O. 1970, c. 284, s. 306 (4, 5).

Nature of  
special rate

(5) The treasurer of the local municipality shall deposit the sums collected under this section in a special account and shall from time to time upon demand pay such sums to the treasurer of the Federation of Agriculture for the county in which the local municipality is situate. R.S.O. 1970, c. 284, s. 306 (6); 1972, c. 124, s. 7 (3).

Deposit  
of sums  
collected

(6) The treasurer of the local municipality shall on the date fixed by statute for the return of the collector's roll prepare and forward to the treasurer of the Federation of Agriculture for the county in which the local municipality is situate a list of the names of the ratepayers to whom the by-law mentioned in subsection (1) is applicable and whose rates thereunder have not been collected, and thereupon the duty of the local municipality to collect such rates terminates. R.S.O. 1970, c. 284, s. 306 (7); 1972, c. 124, s. 7 (4).

Termination  
of duty to  
collect

(7) The treasurer of the local municipality shall deduct from the sums collected such amounts for the services rendered as may be authorized in writing by the treasurer

Payment of  
services

of the Federation of Agriculture for the county in which the local municipality is situate and shall pay such amounts into the general funds of the local municipality. R.S.O. 1970, c. 284, s. 306 (8); 1972, c. 124, s. 7 (5).

Yearly  
estimates  
and contents

**164.**—(1) The council of every municipality shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the municipality, including a sum sufficient to pay all debts of the corporation falling due within the year and any amounts required to be raised for sinking funds, and including the sums required by law to be provided by the council for school purposes and for any board, commission or other body, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Ministry may from time to time prescribe. R.S.O. 1970, c. 284, s. 307 (1); 1972, c. 1, s. 1.

Allowances  
to be  
made in  
estimates

(2) In preparing the estimates the council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for the cost of collection, abatement of and discount on taxes and for uncollectable taxes and may provide for taxes that it is estimated will not be collected during the year and for such reserves as the council considers necessary. R.S.O. 1970, c. 284, s. 307 (2); 1974, c. 136, s. 9; 1975, c. 8, s. 3.

Rating  
by-laws

(3) One by-law or several by-laws for levying the rates may be passed as the council considers expedient. R.S.O. 1970, c. 284, s. 307 (3).

Form of  
estimates

(4) The Ministry may prescribe the form of estimates to be prepared by the council and may from time to time vary the same. R.S.O. 1970, c. 284, s. 307 (4); 1972, c. 1, s. 1.

Yearly  
estimates  
from other  
boards, etc.

(5) The council may by by-law require that the estimates for the current year of every board, commission or other body for which the council is by law required to levy any rate or provide money shall be submitted to the council on or before the 1st day of March in each year, and that such estimates shall be in the form and give the particulars that the by-law prescribes. R.S.O. 1970, c. 284, s. 307 (5).

Reserve  
funds  
R.S.O. 1980,  
c. 303

**165.**—(1) Every municipality as defined in the *Municipal Affairs Act* and every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or



special Act in an unorganized township or in unsurveyed territory may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds, provided that, where the approval of the council is required by law for a capital expenditure or the issue of debentures of or on behalf of a local board, the approval of the council of a provision in the estimates of the local board for a reserve fund shall be obtained. 1976, c. 69, s. 7 (1).

(2) The moneys raised for a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund. R.S.O. 1970, c. 284, s. 308 (2); 1979, c. 101, s. 3 (1). Investments and income  
R.S.O. 1980, c. 512

(3) The council may by by-law provide that, instead of a separate account being kept for each reserve fund, a consolidated account may be kept in which there may be deposited the moneys raised for all reserve funds established under this section but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of each reserve fund. R.S.O. 1970, c. 284, s. 308 (3); 1979, c. 101, s. 3 (2). Consolidated account

(4) The council may by by-law provide that the moneys raised for a reserve fund established under subsection (1) may be expended, pledged or applied to a purpose other than that for which the fund was established. 1976, c. 69, s. 7 (2). Expenditure of reserve fund moneys

(5) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection (1). R.S.O. 1970, c. 284, s. 308 (5). Auditor to report on reserve funds

**166.**—(1) Where a contribution is received by a municipal corporation in consideration of the expense incurred or to be incurred by the corporation as a result of a proposed subdivision of land, such contribution shall be used only to meet expenditures for work done within the subdivision or for the benefit or use of the occupiers or subsequent occupiers of the land within the subdivision or to meet expenditures incurred wholly or in part by reason of the subdivision of such land and, where a contribution is made for a specific purpose, it may be used only to meet expenditures for such purpose. R.S.O. 1970, c. 284, s. 309 (1). Contributions re expenses incurred by corporation re proposed subdivision of land

(2) Such contributions shall be paid into a special account, and subsections 165 (2) and (3) apply with necessary modifications thereto. R.S.O. 1970, c. 284, s. 309 (2); 1979, c. 101, s. 4. Special account

Use for other  
purposes

(3) Notwithstanding subsection (1), if any of the contributions referred to in subsection (1) are not required or likely to be required for the purposes mentioned in subsection (1), they may be expended for some other purpose. R.S.O. 1970, c. 284, s. 309 (3); 1974, c. 136, s. 11.

If the  
amount  
collected  
falls short

**167.**—(1) Where the amount collected falls short of the sum required, the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them.

When sums  
collected  
exceed  
estimate

(2) Where the amount collected exceeds the estimates, the surplus forms part of the general funds and is at the disposal of the council, unless otherwise specially appropriated. R.S.O. 1970, c. 284, s. 310.

Rates to be  
due on  
January 1st

**168.** The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. R.S.O. 1970, c. 284, s. 311.

## PART XII

### FINANCES

#### ACCOUNTS AND INVESTMENTS

Interpre-  
tation

**169.**—(1) For the purposes of this section, “municipality” includes a metropolitan, regional or district municipality. 1972, c. 124, s. 8, *part*.

Investment  
of moneys  
not  
immediately  
required

(2) Where a municipality has moneys not required immediately by the municipality, such moneys may be,

(a) invested in,

(i) bonds, debentures, or other evidences of indebtedness of or guaranteed by the Government of Canada, the Province of Ontario, or any other province of Canada,

(ii) debentures, notes or guaranteed investment certificates of or term deposits with any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*,

- (iii) term deposits, deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued, accepted, guaranteed or endorsed by any chartered bank to which the *Bank Act* (Canada) applies, 1980-81,  
c. 40 (Can.)
- (iv) promissory notes of a metropolitan, regional or district municipality, or of a municipality as defined in the *Municipal Affairs Act*, or of a conservation authority established under the *Conservation Authorities Act*, R.S.O. 1980,  
cc. 303, 85
- (v) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*; or R.S.O. 1980,  
c. 102

- (b) advanced to the capital account of the municipality for the purpose of interim financing of capital undertakings of the municipality,

provided that the investments or advances to the capital account become due and payable by the day on which the moneys are required by the municipality, and all interest thereon shall be credited to the fund from which the moneys are invested or advanced. 1974, c. 136, s. 12; 1976, c. 51, s. 9; 1978, c. 101, s. 2.

**170.**—(1) Subject to subsections (3) and (4), money received by any municipal corporation from the sale or hypothecation of any debentures shall be kept in a separate account and shall be used only for the purposes for which it was raised and shall not be applied towards payment of the current or other expenditure of the municipality. Application  
of proceeds  
of debentures R.S.O. 1970, c. 284, s. 313 (1).

(2) Notwithstanding subsection (1) of this section and section 177, where a local municipality having a population of not less than 20,000, as determined under the *Ontario Unconditional Grants Act*, has moneys received from the sale of debentures that are not required immediately for the purpose or purposes for which the debentures were issued, such moneys may be invested in the general fund of the municipality, provided that such moneys shall be returned to the debenture account, Idem  
R.S.O. 1980,  
c. 359

- (a) by the day on which the moneys are required for the purpose or purposes for which the debentures were issued; or
- (b) not later than the 31st day of December of the year in which the moneys were so invested,

whichever the first occurs and interest shall be credited to the debenture account on the amount so invested, at a rate equal to the rate currently applicable to the temporary borrowings of the municipality. 1974, c. 136, s. 13; 1975, c. 7, s. 2 (2).

Application  
of surplus  
funds raised  
on debentures

(3) Subject to subsection (4), when the amount realized from the debentures is in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied as follows:

1. Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose if any such debentures are redeemable.
2. Where no such debentures are redeemable or where the amount is not sufficient to redeem a debenture or where a balance remains after redemption as required by paragraph 1, the amount or the balance, as the case may be, shall be applied on the annual payments of principal and interest on the debentures until the amount or the balance, as the case may be, has all been so applied, and the levies required for such purpose shall be reduced accordingly.

Application  
of amounts  
not required  
for purposes  
of debentures

(4) Where the whole or any part of the amount realized from the sale or hypothecation of any debentures is not required for the purpose or purposes for which the debentures were issued, it may be applied to buy back the debentures or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which if raised by taxation would be raised by taxation levied upon the assessment of the same class of ratepayers as would have been levied upon to meet the debt charges if the amount had been expended for the purpose or purposes for which the debentures were issued.

Use of  
proceeds  
of sale of  
property  
acquired  
from  
proceeds of  
sale of  
debentures

(5) Where real or personal property acquired with all or part of the proceeds of the sale of debentures is sold while any part of the debentures remains outstanding, the net proceeds of the sale, to the extent of the amount of principal and interest then outstanding on such debentures, shall be applied in accordance with subsections (3) and (4). R.S.O. 1970, c. 284, s. 313 (2-4).

Accounts,  
how to be  
kept

**171.**—(1) Every council shall,

- (a) keep a separate account of every debt;



(b) where the whole of a debt is not payable in the current year, keep in respect thereof,

(i) an additional account for the interest, if any, and

(ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and

(c) keep the accounts so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated for the payment of it.

(2) The council of a city may by by-law provide and direct that, instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. Consolidated interest account

(3) The council of a city may by by-law provide that, instead of a separate bank account being kept for the sinking fund of every debt that is to be paid by means of a sinking fund, a consolidated bank account may be kept in which there may be deposited the sinking funds of all debts that are to be paid by such means, but which consolidated bank account shall be so kept that the requirements of the sinking fund of every debt are duly provided for. R.S.O. 1970, c. 284, s. 314. Consolidated sinking fund account

**172.** If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal. R.S.O. 1970, c. 284, s. 315. Application of surplus money

**173.** Notwithstanding any general or special Act, where the revenue derived from the investment of sinking funds together with other accretions exceeds the aggregate requirements of all by-laws applicable thereto and the excess is represented in a consolidated surplus account or other separate funds, the commissioner of finance, the treasurer of the municipality or the trustees of the sinking fund, as the Where surplus in sinking fund

case may be, may with the approval of the council and the Municipal Board apply the amount of such surplus to the sinking fund of each debt proportionately as the amount of the sinking fund of each such debt bears to the aggregate of the sinking funds of all such debts and, notwithstanding sections 176 and 177, the amount of such surplus not so applied may with the approval of the council and the Municipal Board be transferred to the general funds of the municipality. R.S.O. 1970, c. 284, s. 316.

Where  
amount in  
sinking fund  
sufficient

**174.** Notwithstanding any general or special Act, when the amount in a sinking fund is sufficient, with the estimated revenue therefrom, to pay the principal of the debt as it becomes due, the council with the approval of the Municipal Board may not be required to raise or provide any further sum with respect to such debt. R.S.O. 1970, c. 284, s. 317.

Notice of  
appointment

**175.** Notice of an appointment for the hearing by the Municipal Board of an application for approval under section 173 or 174 shall be given to such persons and in such manner as the Municipal Board may direct. R.S.O. 1970, c. 284, s. 318.

Money  
levied for a  
sinking fund  
not to be  
diverted

**176.** No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation. R.S.O. 1970, c. 284, s. 319.

Liability of  
members for  
diversion  
of sinking  
fund

**177.**—(1) If the council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Action by  
ratepayer

(2) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualifica-  
tion

(3) The members who vote for such application are disqualified from holding any municipal office for two years. R.S.O. 1970, c. 284, s. 320.

Statement  
of treasurer  
as to amount  
required  
for sinking  
fund

**178.**—(1) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund shall prepare and lay before the council in every year, previous to the striking of the annual rate, a statement showing what amount will be required for that purpose.

(2) For every contravention of this section, the treasurer <sup>Offence</sup> is guilty of an offence and on conviction is liable to a fine of not more than \$25. R.S.O. 1970, c. 284, s. 321.

**179.** If the council neglects in any year to levy the <sup>Penalty where council neglects to levy for sinking fund</sup> amount required to be raised for a sinking fund, each member of the council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. R.S.O. 1970, c. 284, s. 322.

#### COMMISSION OF INQUIRY

**180.**—(1) The Lieutenant Governor in Council, upon the <sup>Commission of inquiry</sup> recommendation of the Minister, may issue a commission to inquire into any of the affairs of any municipality, or local board thereof, and any matter connected therewith, and the commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. <sup>R.S.O. 1980, c. 411</sup> 1970, c. 284, s. 323 (1); 1971, c. 49, s. 18.

(2) A commission may be recommended at the instance <sup>When commission may issue</sup> of the Ministry or upon the request in writing of not less than one-third of the members of a council or of not less than fifty ratepayers assessed as owners and resident in the municipality. R.S.O. 1970, c. 284, s. 323 (2); 1972, c. 1, s. 1.

(3) The expenses of and incidental to the execution of the <sup>Expenses of commission</sup> commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister, and forthwith be paid by the municipality. R.S.O. 1970, c. 284, s. 323 (3).

#### DEBENTURES

**181.**—(1) Subject to subsection (3), a debenture or other <sup>Debentures, how to be executed</sup> like instrument shall be sealed with the seal of the corporation, and signed by the head of the council or by some other person authorized by by-law to sign it, and by the treasurer.

(2) A debenture may have coupons for the interest attached <sup>Execution of coupons</sup> to it, which shall be signed by the treasurer and his signature to them may be written or engraved, lithographed, printed or otherwise mechanically reproduced.

(3) The signature of the head of the council of the cor- <sup>Execution of debentures</sup> poration to all debentures or other like instruments issued by the corporation may be written or engraved, lithographed, printed or otherwise mechanically reproduced and, if such debentures or other like instruments are countersigned in

writing by the deputy treasurer, the signature of the treasurer thereon may be written or engraved, lithographed, printed or otherwise mechanically reproduced.

Full  
amount of  
debentures  
sold at a  
discount  
recoverable

(4) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it is recoverable notwithstanding its negotiation by the corporation at a discount.

Signature to  
debentures

(5) Any debenture heretofore or hereafter issued is sufficiently signed by the head of the council if it bears the signature, as hereinbefore provided in this section, of the person who was the head of the council either at the date of the debenture or at the time when it was issued. R.S.O. 1970, c. 284, s. 324.

Debentures  
on which  
payment has  
been made  
for one year  
to be valid

**182.** Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the corporation, the by-law and the debentures issued under it are valid and binding upon the corporation. R.S.O. 1970, c. 284, s. 325.

Mode of  
transfer  
may be  
prescribed

**183.—**(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this corporation, transferable, except by entry by the treasurer in the Debenture Registry Book of the Corporation at the.....  
.....of.....

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

Require-  
ments as to  
endorsing  
certificate  
of ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

Transfer by  
entry in  
registry  
book

(3) After a certificate of ownership has been endorsed, the debenture is transferable only by entry by the treasurer in the Debenture Registry Book, as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney.



(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture.

Registration of debenture as to principal and interest

(5) Where debentures are payable in a currency other than that of Canada, the council may provide that the Debenture Registry Book of the corporation in respect of such debentures be maintained outside of Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the council considers appropriate. R.S.O. 1970, c. 284, s. 326.

When Debenture Registry Book may be maintained outside Canada

**184.** Where a debenture is defaced, lost or destroyed, the council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1970, c. 284, s. 327.

Replacement of lost debentures

**185.**—(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on the debenture and to hypothecate it for the loan.

Borrowing by hypothecation of debentures

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds, and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan.

Application of proceeds of loan

(3) Subject to subsection (2), the redemption of a debenture heretofore or hereafter hypothecated shall not be deemed to have prevented and does not prevent the subsequent sale thereof. R.S.O. 1970, c. 284, s. 328.

Hypothecation not to prevent subsequent sale of debentures

**186.**—(1) Subject to subsection (2), a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$50, and any such bond, bill, note or debenture is void.

Debentures, etc., not to be for less sums than \$50

(2) A debenture issued under the authority of any by-law providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an annual sum of not less than \$50, whether the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$50 within the meaning of this section, and all debentures so issued under such a by-law and otherwise legal are valid. R.S.O. 1970, c. 284, s. 329.

Proviso as to debentures issued for sums that include principal and interest

Where  
debentures  
sold at  
premium

**187.**—(1) Where on the sale of the whole or any part of an issue of debentures a premium is derived and moneys in addition to the principal sum of the debentures are required for the purpose or purposes for which the debentures were issued, the premium shall be applied to such purpose or purposes.

Idem

(2) Where the whole or any part of the premium is not required for the purpose or purposes for which the debentures were issued, the amount of the premium or of the part not so required shall be applied as follows:

- (a) Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose.
- (b) Where the amount is not sufficient to redeem a debenture or where a balance remains after redemption as required by clause (a), the amount or the balance, as the case may be, shall be applied on the first annual payment of principal and interest on the debentures, and the levy made in the first year for such purpose shall be reduced accordingly.

Deficit on  
sale of  
debentures

(3) Where on the sale of the whole or any part of an issue of debentures of a municipality a deficit is sustained and the amount of the deficit or any part thereof is required for the purpose or purposes for which the debentures were issued and was not fully estimated and provided for in the amount of the debenture issue, the amount of the deficit or the part so required,

- (a) shall be added to the sum to be raised for the first annual payment of principal and interest on the debentures and the levy made in the first year for such purpose; or
- (b) shall be added in equal portions to the sum to be levied for the annual payment of principal and interest on the debentures in each year commencing with the first year in which such levy is made and annually thereafter over such period of years not exceeding five years in all as may be approved by the Municipal Board,

and the levy made in each of such years shall be increased accordingly. R.S.O. 1970, c. 284, s. 330.

Tenders for  
debentures

**188.** When a municipal corporation intends to borrow money on debentures under this or any other Act, the

council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1970, c. 284, s. 331.

#### TEMPORARY LOANS

**189.**—(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note such sums as the council considers necessary to meet, until the taxes are collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

Current borrowings

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection (1), together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

Limit at any one time

(3) At the time that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the by-law authorizing the borrowing and a statement showing the nature and amount of the estimated revenues of the current year not yet collected or, where the estimates for the year have not been adopted, a statement showing the nature and amount of the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year, and also showing the total of any amounts borrowed under this section that have not been repaid.

Treasurer to furnish lender with copy of by-law, etc.

(4) Until such estimates are adopted, the limitations upon borrowing prescribed by subsection (2) shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year.

Temporary application of estimates of preceding year

(5) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Lender not bound by application of borrowings, etc.

(6) Any promissory note made under the authority of this section shall be executed in the same manner as a debenture

Execution of promissory notes

as provided in subsection 181 (1), and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Creation of  
charge

(7) The council may by by-law provide or authorize the head and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Execution of  
agreements

(8) Any agreement entered into under subsection (7) shall be sealed with the corporate seal and signed by the head and treasurer.

Penalty  
for excess  
borrowings

(9) If the council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for  
misapplica-  
tion of  
revenues by  
council

(10) If the council authorizes the application of any revenues of the corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Penalty for  
misapplica-  
tion of  
revenues by  
officials

(11) If any member of the council or officer of the corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction. R.S.O. 1970, c. 284, s. 332 (1-11).

Saving  
clauses as to  
penalties

(12) Subsections (9), (10) and (11) do not apply,

(a) to a council or any member of a council or officer of a corporation acting under an order or direction issued or made under the authority of Part III of the *Municipal Affairs Act*; or

R.S.O. 1980,  
c. 303

(b) in any case where application of the revenues of the corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1970, c. 284, s. 332 (12); 1972, c. 1, s. 104 (6).



**190.** Where by this or any other Act power is conferred on a corporation to borrow money, it includes, pending the issue and sale of the debentures, the power to agree with a bank or person for temporary advances from time to time to meet expenditures incurred, up to the total of the amount of the debentures authorized by the Municipal Board and any further amount that has been authorized by the Municipal Board. R.S.O. 1970, c. 284, s. 333.

Temporary  
advances

**191.** When a corporation guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of the corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality or, where the guarantee is by or on behalf of a section or portion of a township, by a rate on all the rateable property in such section or portion. R.S.O. 1970, c. 284, s. 334.

Power to  
borrow to  
meet  
guarantee of  
debentures

### PART XIII

#### ACQUISITION OF LAND AND COMPENSATION

##### LAND TAKEN OR INJURIOUSLY AFFECTED

**192.** In this Part,

Interpre-  
tation

- (a) "expropriation" means taking without the consent of the owner, and "expropriate" and "expropriating" have corresponding meanings;
  - (b) "judge" means a judge of the county or district court of the county or district in which the land or any part of it is situate;
  - (c) "owner" includes a mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, trustee in whom land is vested, a committee of the estate of a mentally incompetent person, an executor, an administrator, and a guardian.
- R.S.O. 1970, c. 284, s. 335.

**193.**—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting and repairing

Power to  
acquire or  
expropriate  
land

buildings thereon, and for making additions to or alterations of such buildings, and may sell or otherwise dispose of the same when no longer so required.

Lease

(2) Without limiting the generality of this section, in subsection (1) "otherwise dispose of" shall be deemed to include and to have always included a lease.

Taking more  
land than  
required

(3) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Land to be  
described  
in by-law,  
etc.

(4) A by-law for entering on or expropriating land shall contain a description of the land and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. R.S.O. 1970, c. 284, s. 336 (1-4).

Power to  
expropriate  
land of  
another  
municipality  
R.S.O. 1980,  
c. 303

(5) A municipality as defined in the *Municipal Affairs Act*, including The Municipality of Metropolitan Toronto, that has authority to expropriate land may, with the approval of the Municipal Board, exercise this authority in respect of the land of another such municipality. R.S.O. 1970, c. 284, s. 336 (5); 1972, c. 1, s. 104 (6).

Use of lands  
owned by  
corporation

(6) The council of every corporation may pass by-laws providing for the use by the public of lands of which the corporation is the owner and for the regulation of such use and the protection of such lands. 1978, c. 32, s. 15.

Power to  
use excess  
land by way  
of compensa-  
tion to  
owners

**194.**—(1) Any land acquired or taken by a corporation in the exercise of the powers conferred by any general or special Act in excess of the land actually required for the opening, widening, extension or straightening of a highway may be used in or towards making compensation by way of restitution to the owner of other land taken for or in connection with the work, and the corporation may lawfully exercise such powers in pursuance of an agreement to that effect with such owner or with a view to making or proposing to make such an agreement.

Offer to  
transfer  
excess land  
by way of  
compensa-  
tion to be  
considered  
in award,  
award to be  
binding

(2) If in any proceeding to fix compensation for land taken by it the corporation offers to transfer or assure

additional or other land to the owner by way of enlarging the remainder of his parcel or in substitution for his parcel, such offer shall be taken into account and dealt with in the award and, if the award is based on such transfer being made, the offer is binding on the corporation in the terms fixed by the award (subject to any right of appeal) and the offer and final award together constitute an agreement between the parties, and the owner is entitled to have such additional or substituted land assured him in accordance therewith.

(3) In such case, upon the application of the corporation or of an interested party, the Municipal Board may make such orders to compel the taking by the corporation of such additional land for the purposes of the agreement and as to the vesting of the title to the land in accordance with the agreement as may be necessary to protect and enforce the rights of all parties interested. R.S.O. 1970, c. 284, s. 337.

Power of  
Municipal  
Board to  
order  
performance  
of agreement

**195.** The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation that the council may lawfully sell, shall be sold, is not open to question, review, or control by any court, if the purchaser is a person who may lawfully buy and the council acted in good faith. R.S.O. 1970, c. 284, s. 338.

Sale of land  
by council,  
when not  
to be open  
to question

#### DEFERRED WIDENING, ETC., OF HIGHWAY

**196.**—(1) In this section, “highway” includes “street” as defined in the *Local Improvement Act*.

Interpre-  
tation  
R.S.O. 1980,  
c. 250

(2) A by-law of the council of a local municipality for establishing or laying out, or for extending, widening or diverting, a highway or part of a highway may provide that the corporation shall not enter immediately on the land required to be taken or proceed to carry out the work but that the same shall be deferred until a day named therein not less than three and not more than ten years after the date of the passing of the by-law.

By-law may  
fix future  
date for  
widening,  
etc.

(3) Subject to subsection (8), the corporation shall not enter on any land required to be taken before the day named in such by-law unless by leave of the judge or by order of the Municipal Board made as hereinafter provided. R.S.O. 1970, c. 284, s. 339 (1-3).

Entry  
deferred  
accordingly

By-law not  
to be  
repealed  
except with  
leave of  
Municipal  
Board

(4) The by-law shall be binding upon the corporation and shall not be repealed or altered except with leave of the Municipal Board, such leave to be granted the corporation only for exceptional reasons not apparent or existing when the by-law was passed and after hearing the owners of the lands proposed to be taken and on such terms as the Board may determine in regard to the revesting of the land taken and the payment to each owner of the damages, if any, sustained by him in consequence of the passing of the by-law or of so much of the by-law as is proposed to be altered and his costs. 1976, c. 69, s. 8.

Registration  
of plan in  
advance

R.S.O. 1980,  
c. 445

(5) Where the council proposes to pass a by-law under this section, it may register in the proper land registry office a draft plan of the contemplated work with any supplementary memorandum that may be needed to show its substantial features and to furnish adequate local description to comply with the *Registry Act* and the land registrar shall enter the same on the abstract index for each parcel of land required to be taken; but, if the by-law is not passed within six months after such registration, the registration shall be deemed of no effect and the corporation shall forthwith cause a certificate signed by the mayor or reeve and clerk and sealed with the corporation's seal, stating that no by-law was passed, to be registered in like manner in the land registry office.

Land taken  
shall vest  
at once in  
corporation  
on conditions

(6) After the passing of the by-law and subject to any order made by the Municipal Board under subsection (4), the land required to be taken for the work shall be deemed to be vested in the corporation for the purposes of a highway subject to the right of the owner or his assigns to remain in the possession and enjoyment thereof without impeachment of waste either wanton or permissive until entry by the corporation as aforesaid and to utilize the land and to erect buildings thereon during his or their occupancy (subject to the provisions of subsections (13) to (17) as to compensation in respect of such buildings).

Assessment  
of land  
when vested

(7) After the land is vested in the corporation, it shall for all purposes of assessment and taxation, whether under such by-law or otherwise, be deemed to be a component part of the highway; but, where a building stands partly on land taken for the work and partly on adjoining land, it shall be assessed on the assessment roll of the municipality in the same manner as if it stood entirely on such adjoining land.

Application  
by corpora-  
tion to  
Municipal  
Board to  
further  
defer entry

(8) Where it is shown to the satisfaction of the Municipal Board upon application made by the corporation before the day fixed for entry by the by-law that in view of financial



conditions it is desirable that the day fixed for entry by the by-law should be further deferred, the Municipal Board may further defer the time for entry by the corporation on the land until a day not less than one year and not more than three years after the day fixed for entry by the by-law, but so that the total time for which entry is deferred by the provisions of the by-law and the order of the Municipal Board shall not exceed ten years, upon such terms and conditions as the Board considers proper, and upon such order being made the day fixed by the Municipal Board as the day for entry shall thereafter be deemed to be the day fixed in the by-law for entry.

(9) At the date named in the by-law for entry, it is the duty of the corporation to enter and proceed with diligence and dispatch to remove all buildings and obstructions from the land taken for the work and to put it in fit and proper condition and make it available for use as a highway.

Corporation  
to enter at  
date named

(10) The by-law may be passed without the assent of the electors and without regard to the *Local Improvement Act* and shall express the intention of the council as to the corporation's portion of the cost thereunder, and the council may thereafter by a majority vote pass a by-law for undertaking the work as a local improvement and such by-law has the same force and effect as if passed under section 8 of the *Local Improvement Act* and the provisions of that Act apply thereafter to such work with necessary modifications and the owners of the lots liable to be specially assessed thereunder have all the rights and remedies in relation thereto that are given them by such Act so far as they are not inconsistent with the other provisions of this section, but the Municipal Board has no power under section 6 or 8 of such Act, either by making an order or by withholding its approval to prevent the due carrying out of the work.

Subsequent  
by-law for  
undertaking  
work as  
a local  
improvement  
R.S.O. 1980,  
c. 250

(11) Except as may be otherwise ordered by the Municipal Board under subsections (16) and (17), compensation payable under this section does not become payable until the day fixed in the by-law for entry.

Compensa-  
tion, when  
payable

(12) The compensation shall be limited to,

Limitations  
as to com-  
pensation

(a) the market value of the land itself exclusive of and without regard to any buildings or improvements thereon;

(b) the value of the buildings and improvements;

(c) damages occasioned by disturbance to any business established previous to the passing of the by-law to which the general principles of compensation apply;

(d) damages to land, buildings and improvements injuriously affected by the exercise of any of the powers conferred by this section.

Interpre-  
tation

(13) In subsections (14) and (15), "land" means the land itself exclusive of and without regard to any buildings or improvements thereon.

Fixing com-  
pensation  
for land  
apart from  
buildings

(14) Notwithstanding that entry is deferred, the corporation or the owner may proceed at once after the passing of the by-law to determine or have determined the compensation, if any, payable hereunder in respect of any land.

Value

(15) The value of the land shall be fixed as of the date of the registration of the draft plan or, if no plan is registered, as of the date of the passing of the by-law.

Fixing com-  
pensation for  
buildings

(16) Compensation shall be allowed in respect of buildings and improvements as they may exist at the date fixed for entry.

As to  
buildings  
erected after  
passing of  
by-law

(17) In respect to buildings or improvements erected or made after the date of the registration of the draft plan of the work or, if no plan is registered, after the date of the passing of the by-law, the compensation or damages shall be allowed and payable to the extent only of three-quarters of the proper cost of a structure one storey in height of such temporary character, conformable to the existing building by-laws and regulations, as may be reasonable in view of the limited time that is to elapse before entry.

Relief in  
special cases

(18) The Municipal Board may make an order at any time granting relief in the following cases: first, where part of an owner's lot is taken for the work and special circumstances exist in the matter of the location, size or shape of the lot that render it inequitable and unjust that the compensation to be allowed for buildings or improvements to be thereafter erected thereon should be limited as provided in subsections (13), (14) and (15) and, secondly, where the work is deferred until a day more than five years after the date of the passing of the by-law and the whole of the owner's lot is taken or so much of it as to render the remainder, by reason of its size or

shape, unfit for building purposes, and the Board in the first case may approve of plans and specifications for appropriate buildings or improvements and fix the basis of compensation to be made therefor, and in the second case it may direct the corporation to enter and make compensation to the owner at an earlier day than the day named in the by-law or to make an immediate or periodical payment to the owner to compensate him for the delay, or it may make such further or other order in either case as may be required to afford due compensation to the owner for the exceptional and peculiar damage he would suffer by reason of the special circumstances affecting his lot.

(19) The council may agree with any bank or person for temporary advances to meet any costs or liabilities incurred under the by-law prior to the completion of the work. R.S.O. 1970, c. 284, s. 339 (5-19). Temporary advances

**197.**—(1) The council of a local municipality, as a preliminary step to the widening of a highway or any part thereof, may pass by-laws fixing as a building line the minimum distance from the limit of the highway at which buildings may thereafter be erected or placed, and prohibiting the erection or placing of any building or part thereof closer to the limit of the highway than the distance fixed by the by-law. Prescription of building line

(2) A by-law under subsection (1) shall not come into force until it is approved by the Municipal Board, and when so approved shall not be amended or repealed except with the approval of the Board and on such terms as the Board may determine. Approval of Municipal Board

(3) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section. R.S.O. 1970, c. 284, s. 340 (1-3). Notice

(4) The building line fixed by the by-law shall not be distant more than six metres from the limit of the highway. R.S.O. 1970, c. 284, s. 340 (4); 1978, c. 87, s. 40 (2). Maximum building line

(5) Notwithstanding subsection (4), for the purpose of carrying out an official plan in effect under the *Planning Act* or for the purpose of improving the appearance or utility of the highway, the Municipal Board may authorize the establishment of the building line at a distance greater than six metres from the limit of the highway in respect of any part or parts of the highway. R.S.O. 1970, c. 284, s. 340 (5); 1978, c. 87, s. 40 (3). Exceptions R.S.O. 1980, c. 379

Building  
line need  
not be  
uniform

(6) The distance between the limit of the highway and the building line need not be the same for all parts of the highway or part of a highway in respect of which the by-law is passed.

Exceptions  
from  
operation  
of by-law

(7) A by-law passed under subsection (1) shall not prevent the erection or placing closer to the limit of the highway than the distance fixed in the by-law of any one-storey shop or building front of such temporary character, conformable to the existing by-laws and regulations, as may be reasonable.

Compulsory  
acquisition  
of land

(8) After the by-law has been passed and approved by the Municipal Board,

(a) if three-quarters of the frontage measured along one limit of the highway between two streets intersecting the highway is clear of buildings, other than one-storey shop or building fronts, back to the building line; or

(b) if, at any time after the expiration of ten years from the date of the by-law, a majority of the owners of the land fronting and abutting on one limit of the highway between two streets intersecting the highway so petition in writing,

the municipality shall acquire the land fronting and abutting on that limit of the highway and lying between the two streets intersecting the highway and between the limit of the highway and the building line.

Board may  
authorize  
delay

(9) Notwithstanding that the conditions set out in clause (8) (a) have been fulfilled, the Municipal Board may from time to time authorize the municipality to delay its acquisition of the land in question, but no such authority shall be given so as to delay the acquisition beyond ten years from the date of the by-law.

Conveyance  
to municip-  
ality when  
land clear

(10) Where that part of the land of any owner lying between the limit of the highway and the building line is or becomes clear of buildings and the owner offers to convey that part to the municipality, the municipality shall accept the conveyance and is liable for compensation to the owner or the persons entitled thereto to the same extent as if the by-law had been passed to widen the highway.

Limitation  
on compen-  
sation

(11) In determining the compensation payable by the municipality for the taking of lands for the widening of a portion of a highway in respect of which a building line has been fixed under this section, the municipality is



not liable to pay compensation for or in respect of any building erected in contravention of the by-law fixing the building line.

(12) Notwithstanding any other provision in this Act or any other Act and except as provided in subsection (10), the municipality is not liable to pay any compensation or damages by reason of having passed a by-law under subsection (1). By-law not to give rise to claims

(13) Every by-law under this section, when approved by the Municipal Board, shall be registered in the proper land registry office and when tendered for registration shall have attached thereto a plan or plans and any supplementary memorandum that may be needed to furnish adequate local description to comply with the *Registry Act*, prepared by an Ontario land surveyor and showing the position of the building line in relation to the limit of the highway. Registration of by-law; plan of work R.S.O. 1980, c. 445, s. 340 (6-13). R.S.O. 1970, c. 284,

## PART XIV

### ARBITRATIONS

**198.**—(1) Except in cases where there is an official arbitrator, the judge of the county of district court shall be sole arbitrator unless he under his hand requests another judge of that court or the judge of some other county or district to act for him, in which case the judge so designated shall be sole arbitrator. County judge as sole arbitrator

(2) The provisions of the *Municipal Arbitrations Act* as to procedure and appeals apply to arbitrations held and awards made by the judge. R.S.O. 1980, c. 304 to apply R.S.O. 1970, c. 284, s. 341.

**199.**—(1) Notwithstanding the other provisions of this Act or any other Act, the council may by by-law designate the Municipal Board as the sole arbitrator, in which case the Municipal Board has and may exercise all the powers and duties of an official arbitrator. Municipal Board as arbitrator

(2) Except as provided in subsection (3), the *Ontario Municipal Board Act* applies to proceedings taken before the Municipal Board under this section. Procedure, application of R.S.O. 1980, c. 347

(3) The provisions of the *Municipal Arbitrations Act* with respect to appeals apply to awards made by the Municipal Board under this section. Appeals, application of R.S.O. 1980, c. 304, s. 342. R.S.O. 1970, c. 284,

## PART XV

## ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS

Right of  
action of  
municipal  
corporation  
to enforce  
agreements,  
etc.

**200.** Where a duty, obligation or liability is imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants, of a municipality, or where a contract or agreement is entered into that imposes such a duty, obligation or liability, the corporation has the right by action to enforce it and to obtain as complete and as full relief and remedy as could be obtained in an action by the Attorney General, as plaintiff, or as plaintiff on the relation of any person interested, or in action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. R.S.O. 1970, c. 284, s. 343; 1972, c. 1, s. 9 (7).

Corporation  
to be liable  
for acts done  
under illegal  
by-law

**201.** An action shall not be brought for anything done under a by-law, order or resolution of a council that is invalid, in whole or in part, until one month after the by-law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. R.S.O. 1970, c. 284, s. 344.

## PART XVI

## ADMINISTRATION OF JUSTICE

Police office

**202.** The council of every city and town shall establish and maintain therein a police office. R.S.O. 1970, c. 284, s. 345.

Accommoda-  
tion, etc., for  
police office

**203.** The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the police office, and for the officers connected with it. R.S.O. 1970, c. 284, s. 346.

Existing  
county and  
district  
towns  
continued

**204.** Until otherwise provided by law, the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situate. R.S.O. 1970, c. 284, s. 347.

Conveyance  
of prisoners

**205.** Where the attendance of a prisoner confined in a correctional institution is required at a hearing or proceeding, the municipality maintaining the police force that delivered the prisoner to the correctional institution is

responsible for conveying the prisoner from the correctional institution to the place of the hearing or proceeding and for his return. R.S.O. 1970, c. 284, s. 348.

**206.**—(1) Subject to the approval of the Ontario Police Commission, the council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than ten days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any correctional institution for trial, or in the execution of any sentence, and such persons may be lawfully received and so detained in the lock-up.

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them. R.S.O. 1970, c. 284, s. 349.

**207.**—(1) Every lock-up house shall be placed in the charge of a constable appointed for that purpose.

(2) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. R.S.O. 1970, c. 284, s. 350.

## PART XVII

### POWERS TO PASS BY-LAWS

**208.** By-laws may be passed by the councils of all municipalities:

R.S.O. 1970, c. 284, s. 352, *part.*

#### *Agreements and Contracts*

1. For entering into agreement with any other municipality or person for the use of the fire-fighting equipment, or any of it, of the municipality or of such other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding the provisions of any such agreement no liability accrues to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it.

Water  
supply  
contracts

2. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be considered advisable, and for renting hydrants for any number of years not, in the first instance, exceeding ten, and for renewing the contract from time to time for periods not exceeding ten years, as the council may consider proper, or for purchasing or erecting hydrants necessary for any of such purposes.

Insurance

3. For contracting for insurance against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor.

Agreement  
with  
adjoining  
municipality  
or the owner  
of any works  
as to sewage  
works

4. For entering into agreement with the corporation of an adjoining municipality or with the owner of any sewage works for the use or interchange of any sewage works for the disposal, interception or purification of sewage, and for making all necessary connections and acquiring land in or adjacent to the municipality for any of such purposes, and for providing for the payment by one municipality or party to the other, annually or otherwise, of such sums as may be agreed upon as compensation for any such interchange or use.

Joint  
operation  
of works,  
systems and  
services

5. For entering into agreement with one or more municipalities to provide for the joint management and operation of water systems, sewage systems, works for the disposal, interception or purification of sewage, garbage collection and disposal systems, hydro-electric systems, transportation systems, road systems, fire departments, police departments, or other municipal utility, systems or services, and for the establishment of joint boards of management thereof.

Joint  
acquisition  
and  
operation  
of water  
system, etc.

6. For entering into agreement with one or more municipalities for the establishment, acquisition, enlargement or extension of water systems, sewage systems and sewage disposal works to be jointly owned by the municipalities that have entered into agreement and operated for their joint use upon such terms as may be agreed upon.

Contracts  
for street  
watering  
or oiling

7. For entering into agreement with a company, board or commission operating a transportation system in the municipality for watering or oiling any of the highways for any number of years, not exceeding five, and for renewing such agreement from time to time for a period not exceeding five years. R.S.O. 1970, c. 284, s. 352, pars. 1-7.

Provision  
of municipal  
services to  
Indian band  
reserves

8. For entering into agreement with an Indian band for the provision of any municipal service within the



limits of the reserve occupied by the band upon such terms as may be agreed. 1973, c. 83, s. 6.

9. For providing in any agreement that may be lawfully made with another municipality that any dispute arising out of such agreement may be determined by the Municipal Board as sole arbitrator. R.S.O. 1970, c. 284, s. 352, par. 8. Providing for determination of disputes under agreements

### *Air Harbours and Landing Grounds*

10. For establishing, operating, maintaining and improving aerodromes in compliance with the *Air Regulations* (Canada), and for entrusting the control and management of any aerodrome so established to a commission appointed by the council. Air harbours and landing grounds

- (a) For the purposes of this paragraph, the council of a local municipality may acquire land in the municipality or in any adjacent or an adjoining municipality or in any adjacent or adjoining territory without municipal organization, or may acquire by lease or otherwise an existing aerodrome in any municipality or in territory without municipal organization.

### *Associations*

11. For any of the elected or appointed officers of the corporation becoming members of any municipal union or association or any other association for extending and improving the technical skill of such officers in the discharge of their municipal duties and for paying the whole or part of the fees for such membership and for paying the expenses of such officers attending any meeting of the association or upon its business. 1980, c. 74, s. 9 (2). Officers becoming members of municipal associations

12. For the corporation becoming a member of or for appointing a representative to the membership of any association or organization where in the opinion of council it would be in the interests of the municipality to do so, and for paying the fees for such membership and for paying the expenses of delegates or representatives to any meeting of the association or organization or upon its business and for making contributions for the expenses of the association or organization. 1980, c. 74, s. 9 (3). Membership in associations

### *Drainage and Floods*

13. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or watercourses; for constructing, maintaining, repairing and improving dams; for providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; for making all necessary connections Construction of drains, sewers, sewage disposal works, etc.

therewith, and for acquiring land in or adjacent to the municipality for any of such purposes.

- (a) Before passing a by-law under this paragraph, the council may direct that an engineer's report, with or without a survey, be prepared and the cost thereof may be levied against all the rateable property in the municipality or in a defined area thereof that in the opinion of council derives special benefit therefrom.
- (b) The cost of such construction, maintaining, improving, repairing, widening, altering, diverting, stopping up and acquisition may be levied against all rateable property in the municipality or in a defined area thereof that in the opinion of council derives special benefit therefrom.

Works for  
prevention  
of damage  
by flooding

14. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be considered necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water.

Agreements  
to prevent  
damage  
by floods

15. For entering into agreement with Her Majesty in right of Ontario and for entering into agreement with one or more municipalities and Her Majesty in right of Ontario to acquire and hold for and on behalf of Her Majesty in right of Ontario any lands and premises in the municipality or in any other municipality for the purpose of preventing damage by floods and for doing all such things as may be considered necessary for that purpose.

- (a) Such lands and premises shall be used and disposed of as directed by the Lieutenant Governor in Council.

R.S.O. 1980,  
c. 31

- (b) For the purposes of the *Assessment Act*, such lands and premises shall be deemed a public park.

Obstruction  
of drains

16. For prohibiting the obstruction of any drain or watercourse and for requiring the person causing the obstruction to remove it.

17. For permitting and regulating the size and mode of construction of culverts and bridges that cross any drain or watercourse situated on a highway under the jurisdiction of the municipality. Construction of culverts, etc., crossing drains

*Exhibitions, etc.*

18. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same. R.S.O. 1970, c. 284, s. 352, pars. 16-21. Acquiring land for agricultural exhibitions, etc.

19. For regulating and governing public fairs. 1980, c. 74, s. 9 (4), *part*. Public fairs

20. For leasing for any period, not exceeding three years from the making of the lease, any part of the land acquired under paragraph 18, that is not immediately required for the purposes for which it was acquired. Power to lease

*General*

21. For taking a census of the inhabitants. R.S.O. 1970, c. 284, s. 352, pars. 22, 23. Census

22. For providing for disseminating information respecting the advantages of the municipality as an industrial, agricultural, business, educational, residential or vacation centre. Expenditures for publicity

(a) The power conferred by this section may be exercised jointly by two or more municipalities. 1980, c. 74, s. 9 (4), *part*.

23. For providing for the use by any person of any of the mechanical equipment of the municipality and for fixing the terms, conditions and rent charges therefor. R.S.O. 1970, c. 284, s. 352, par. 24. Rental of equipment

24. For providing for keeping in the custody of the municipality things of historical value or interest donated or loaned to the municipality and for entering into agreements with the donor or lender for the keeping of such things. Things of historical interest

(a) Section 78 does not apply to records, books, accounts and documents in the custody of a municipality pursuant to an agreement under this paragraph where the agreement contains provisions respecting the access of the public to such things.

- (b) Notwithstanding clause (a) or the terms of the agreement, section 78 applies where an agreement under this paragraph is made with a person who at the time of executing the agreement was an employee or a member of the council of the municipality. 1978, c. 101, s. 3, *part.*

Submission  
of questions  
of general  
policy to  
electors

25. For submitting to the vote of the electors any municipal question not specifically authorized by law to be submitted.

- (a) A question as to securing a supply of electrical power or energy from Ontario Hydro shall be submitted to the electors qualified to vote on money by-laws. R.S.O. 1970, c. 284, s. 352, par. 25; 1973, c. 57, s. 19.

Licensing,  
etc., dry  
cleaners, etc.

26. For regulating and governing the business of dry cleaning, dry dyeing, cleaning and pressing and spotting or stain removing; for licensing any person using any land in the municipality for the purposes of any such business including land used for the purpose of receiving articles or goods to be subjected to any such process and for the distribution of articles or goods that have been subjected to any such process; for authorizing the architect or other person named in the by-laws to allow such variation from the standard requirements in the case of any existing business as he may approve; for establishing a maximum and minimum tariff of charges to be made by any person engaging in any such business and for revoking any such licence.

- (a) Where the council of a town, village or township has passed a by-law under this section, the by-law of the county is not in force in the town, village or township while the by-law of the town, village or township remains in force. R.S.O. 1970, c. 284, s. 352, par. 26.

Public  
bathing  
houses

27. For establishing and maintaining public bathing houses. R.S.O. 1970, c. 284, s. 352, par. 29; 1975, c. 56, s. 4 (4).

Community  
programs

R.S.O. 1980,  
c. 276

28. For carrying on any community or joint community program of recreation within the meaning of the regulations under the *Ministry of Culture and Recreation Act* and for expending money for such purposes. R.S.O. 1970, c. 284, s. 352, par. 32; 1975, c. 56, s. 4 (5).



29. For giving bounties for the destruction of foxes, <sup>Fox bounties</sup> provided that a local municipality shall not give any such bounties where the county in which it is situate has a by-law in force under this paragraph. R.S.O. 1970, c. 284, s. 352, par. 35.

30. For offering and paying on the conviction of the offender a <sup>Rewards</sup> reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment, and for offering and paying a reward to any person for information leading to the location or return of missing persons and property. 1979, c. 63, s. 6 (1).

*Harbours, Wharves, etc.*

31. For making, improving and maintaining public <sup>Making, etc., of wharves, docks, etc.</sup> wharves, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof.

32. For regulating harbours. <sup>Regulating harbours</sup>

33. For prohibiting the injuring, fouling, filling up or <sup>Injuring, filling up, etc., of harbours, wharves</sup> encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water.

34. For erecting and maintaining beacons. <sup>Beacons</sup>

35. For erecting, maintaining, operating and renting grain <sup>Erecting and regulating use of docks, etc.</sup> elevators, wharves, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels, and for regulating the use of such facilities and prohibiting the use of such facilities by boats and other craft for any time in excess of such period or periods of time as may be prescribed in the by-law, and for regulating and requiring the removal of any boat or craft using any of such facilities in excess of such period or periods of time.

36. For regulating vessels, crafts and rafts arriving in a <sup>Vessels, harbour dues, etc.</sup> harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order and to pay a harbour master.

37. For requiring the owner or occupant of the land, in connection with which the same exist, to remove door-steps, porches, railings or other erections or obstructions <sup>Removal of door-steps, railings, projecting over wharf, dock, etc.</sup> projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water.

Removal  
of sunken  
vessels,  
etc., from  
harbours,  
etc.

38. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, crafts, cribs, rafts, logs or other obstructions or encumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same.

### *Highways and Bridges*

Regulating  
driving on  
roads and  
bridges

39. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Prohibiting  
racing on  
highways

40. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges.

Laying of  
pipes for  
petroleum,  
etc.

41. Notwithstanding any other Act, for laying or maintaining, or for authorizing any person to lay, use or maintain, pipes or conduits for transmitting gasoline, petroleum or petroleum products, anti-freeze, brine or other similar products along, under, in or upon highways or land owned by the municipality; and for making such annual or other charge for the privilege conferred as the council considers reasonable; and for entering into agreements with persons for the use by them of such pipes or conduits on such terms and conditions as may be agreed upon.

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition shall be payable and payment may be enforced in like manner as taxes.

Prohibiting  
vehicles on  
sidewalks,  
etc.

42. For prohibiting carriages, wagons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon, any sidewalk, pathway or footpath, used by or set apart for the use of pedestrians and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-lot, garden or other place set apart for ornament or embellishment or for public recreation.

- (a) Clause (a) of paragraph 117 of section 210 applies to penalties provided by a by-law passed under this paragraph.

- (b) The driver of a motor vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph, and the owner of the motor vehicle is also liable to such a penalty, unless, at the time the offence was committed, the

motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. R.S.O. 1970, c. 284, s. 352, pars. 47-58.

43. For closing temporarily any highway or portion of a highway under the jurisdiction of the municipality for any period during the construction, repairing or improvement of such highway or portion thereof or of any works under, over, along, across or upon such highway or portion thereof.

Temporary closing of highway for repairs, etc.

- (a) Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
- (b) While a highway or portion thereof is so closed to traffic, there shall be erected at each end of such highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.
- (c) Every person who uses a highway or portion of a highway so closed to traffic does so at his own risk and the municipality having jurisdiction over the highway is not liable for any damage sustained by a person using the highway or portion thereof so closed to traffic.
- (d) Every person who without lawful authority uses a highway or portion thereof so closed to traffic while it is protected in accordance with this paragraph, or who removes or defaces any barricade, device, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on conviction is liable to a penalty of not more than \$50 and is also liable to the municipality having jurisdiction for any damage or injury occasioned by such wrongful use, removal or defacement. R.S.O. 1970, c. 284, s. 352, par. 60; 1978, c. 32, s. 16 (1).

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law any high-

Temporary closing of highway for recreational purposes, etc.

way or portion of a highway under the jurisdiction of the council for such social, recreational, community or athletic purpose, or combination of such purposes, as may be specified in the by-law.

(a) Clauses (a) and (b) of paragraph 43 apply with necessary modifications to every municipality where the council of the municipality has passed a by-law under this paragraph.

(b) A by-law under this paragraph may prohibit the use, except for pedestrian traffic, of the highway or portion of the highway so closed during the period of closure except under the authority of a permit issued under the by-law upon such terms and conditions, including such fee for the permit, as may be set out in the by-law. 1978, c. 101, s. 3, *part*.

### *Municipal Employees*

Appointing  
certain  
officers

45. For appointing such officers and servants as may be necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them. R.S.O. 1970, c. 284, s. 352, par. 63.

Pensions

46. Subject to such limitations and restrictions as the Lieutenant Governor in Council may prescribe by regulations, for providing pensions for employees or any class thereof and their widows and children and for increasing the amount of pensions for or in respect of retired employees or any class thereof and their widows and children.

Interpre-  
tation

(a) In this paragraph,

(i) "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes a member of the police force of the municipality and any person or class of person designated as an employee by the Minister,

(ii) "local board" includes any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police and any other board,



commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof but does not include a hospital established under any general or special Act and operated by a municipal corporation,

- (iii) "retired employee" means a person who was formerly an employee of a municipality or of a local board and to whom or in respect of whom a pension is being paid under an approved pension plan as defined in section 117 or under the Ontario Municipal Employees Retirement System.
- (b) No by-law passed under this paragraph shall become operative until approved by the Ministry nor shall any by-law passed under this paragraph and approved by the Ministry be amended or repealed without the approval of the Ministry. Approval by Ministry
- (c) Payments made under this paragraph or under the *Ontario Municipal Employees Retirement System Act* with respect to past service may be on a deferred basis or provided by the issue of debentures and raised in a subsequent year or years and payments with respect to past service and future service shall be deemed to be current expenditures. Payments to be deemed current expenditures R.S.O. 1980, c. 348
- (d) The municipality or local board shall deduct by instalments from the salary, wages or other remuneration of each employee to whom the by-law is applicable the amount that such employee is required to pay in accordance with the provisions of the plan that provides a pension for such employee. Payments to be deducted from salary, etc.
- (e) Where any employee of a local board is a member of a pension plan provided by a municipality, the local board shall pay to the treasurer of the municipality the payments and deductions made for past and future service of such employee. Payments by local board to municipality
- (f) Any two or more municipalities may provide by agreement for pensions for employees or any class thereof, and in such case the provisions of this Municipalities may agree to provide pensions

paragraph apply with necessary modifications and it shall be agreed that one of the parties shall be deemed to be the municipality and the other parties shall be deemed to be local boards within the meaning of this paragraph.

Local boards  
may provide  
pensions

- (g) Any local board may provide pensions for employees or any class thereof and the provisions of this paragraph apply with necessary modifications thereto. R.S.O. 1970, c. 284, s. 352, par. 64; 1971, c. 81, s. 2; 1972, c. 1, s. 1; 1972, c. 124, s. 9 (3, 4).

Sick leave  
credit  
gratuities

47. For establishing a plan of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Interpre-  
tation

- (a) "Employee" means an employee as defined in paragraph 46.

Allowing  
of credits on  
transfer of  
employment

- (b) A by-law passed under this paragraph may provide, upon such terms and conditions as may be prescribed, for placing to the credit of an employee formerly employed by another municipality or local board which had established a sick leave credit plan under this or any other general or special Act the whole or any part of the sick leave credits standing to the credit of the employee in the plan of the municipality or local board formerly employing the employee.

Local  
boards

- (c) Any local board, except a school board, may establish a plan of sick leave credit gratuities for employees or any class thereof, and the provisions of this paragraph apply with necessary modifications thereto. R.S.O. 1970, c. 284, s. 352, par. 65.

Insurance,  
hospitaliza-  
tion, etc.  
R.S.O. 1980,  
cc. 197, 218,  
388

48. Subject to the *Health Insurance Act*, for providing by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or any class thereof,
- ii. group accident insurance or group sickness insurance for employees or any class thereof and their wives or husbands and children, and

- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives or husbands and children,

and for paying the whole or part of the cost thereof.

- (a) In this paragraph, "employee" means an employee as defined in paragraph 46.

- (b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply with necessary modifications thereto. R.S.O. 1970, c. 284, s. 352, par. 66; 1980, c. 74, s. 9 (5).

49. For paying the whole or part of the cost to employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act*.

Contributions  
towards  
plans under  
R.S.O. 1980,  
c. 197

- (a) In this paragraph, "employee" means an employee as defined in paragraph 46.

- (b) Any local board may contribute toward the cost to employees of the plan of hospital care insurance or of health services insurance provided for under the *Health Insurance Act* and the provisions of this paragraph apply with necessary modifications thereto. R.S.O. 1970, c. 284, s. 352, par. 67.

50. For contracting for insurance to protect the employees of the municipality or any local board thereof, or any class of such employees, against risks that may involve liability on the part of such employees or class thereof and for paying premiums therefor or for paying any damages or costs awarded against any such employees or class thereof or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty imposed by any general or special Act or for paying any sum required in connection with the settlement of such an action or other proceeding and for assuming the cost of defending any such person in such an action or other proceeding.

Liability  
insurance;  
payment of  
damages, etc.

- (a) In this paragraph,

Interpre-  
tation

- (i) "employee" means any salaried officer, clerk, workman, servant or other person in the

employ of the municipality or of a local board and includes a member of the police force of the municipality and any person or class of person designated as an employee by the Minister;

- (ii) "local board" means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,  
c. 303

Local boards

- (b) A local board has the same powers to provide insurance for or to make payments to or on behalf of its employees as are conferred upon the council of a municipality under this paragraph in respect of its employees.

Former  
employees

- (c) A by-law passed under this paragraph may provide that it applies to a person who was an employee at the time the cause of action or other proceeding arose but who prior to judgment or other settlement of the action or proceeding has ceased to be an employee.

Application

- (d) This paragraph does not apply to an act or omission that occurred prior to the 20th day of June, 1978. 1978, c. 32, s. 16 (2), *part*; 1980, c. 36, s. 2 (1).

*Parks, Parking Lots, etc.*

Acquiring  
land for  
parks, etc.

51. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality and, in respect of lands acquired for any of such purposes that are not under the general management, regulation and control of a board of park management, for exercising all or any of the powers that are conferred on boards of park management by the *Public Parks Act*.

R.S.O. 1980,  
c. 417

- (a) A corporation that expropriates land in another municipality under the powers conferred by this paragraph shall put the land in an efficient state to be used and open it to the general public for the purpose for which it was acquired within a reasonable time after such expropriation, and shall maintain and keep the land in an efficient state of repair and shall provide police protection therefor.
- (b) Where land is acquired under this paragraph, the cost of acquisition and maintenance thereof or any part thereof may be levied against a defined area in the municipality that in the opinion of the council derives special benefit therefrom.



- (c) Where land is acquired under this paragraph for park purposes and there is no board of park management, the council may appoint such number of persons qualified to hold office as a member of council as it considers appropriate to act on its behalf as a board of management for any undertaking under this paragraph. R.S.O. 1970, c. 284, s. 352, par. 68; 1980, c. 36, s. 2 (2).

52. For accepting and taking charge of land, within or outside the municipality, dedicated as a public park for the use of the inhabitants of the municipality.

Accepting  
land  
dedicated

53. For entering into agreement with one or more municipalities for the purpose of,

Joint  
acquisition  
and main-  
tenance of  
public parks

- i. acquiring land for and establishing and laying out a public park within the municipality or within any other municipality, and
- ii. maintaining or operating a public park within the municipality or within any other municipality.

54. For establishing, laying out and maintaining bicycle paths and for regulating the use thereof and for acquiring land for such purposes and for entering into agreements with other municipalities, including a regional, district or metropolitan municipality, or with the Crown in right of Ontario or the Crown in right of Canada, or with any person or any other body for the use of land for such purposes.

Bicycle  
paths

- (a) The power to acquire land under this paragraph does not include the power to enter on and expropriate land. 1978, c. 32, s. 16 (2), *part*.

55. For acquiring, establishing, laying out and improving land, buildings and structures where vehicles may be parked, and for erecting buildings or structures for or in connection with the parking of vehicles in, on or under any land vested for any purpose in a municipality, and for leasing such land, buildings or structures, and for regulating, supervising and governing the parking of vehicles therein or thereon.

Municipal  
parking lots

- (a) A by-law under this paragraph may define vehicle for the purposes of the by-law.

Definition  
of vehicle

- (b) Land acquired or established for the parking of vehicles under this paragraph and buildings and structures acquired or erected under this paragraph shall be deemed to be a highway for the

Application of  
s. 316, par. 8

purposes of paragraph 8 of section 315 and the said paragraph 8 applies to such land, buildings and structures.

Entrances  
and exits  
from  
underground  
parking  
facilities

- (c) A by-law under this paragraph may set aside and designate on any land vested for any purpose in a municipality entrances and exits to or from any underground parking facilities for the use of persons or vehicles, provided no such entrances or exits shall be set aside on a connecting link or extension of the King's Highway without the approval of the Ministry of Transportation and Communications.

Procedure  
for voluntary  
payment of  
penalties  
out of court

- (d) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened and if payment is not made in accordance with such procedure section 321 applies.

Reserve  
fund

- (e) Where a municipality established a parking lot or lots or erects buildings or structures therein, thereon or thereunder for such purposes or constructs underground parking facilities in the municipality at the expense of all the ratepayers of the municipality, the municipality shall establish a reserve fund and deposit therein the net revenue derived from the operation of all parking facilities operated by or on behalf of the municipality or leased by or on behalf of the municipality for parking purposes, including parking meters on highways.

Idem

- (f) Such reserve fund shall be applied,
- (i) firstly, for the payment of interest and principal falling due in each year in respect of any debentures issued for the purposes of this paragraph, and
  - (ii) secondly, for the acquisition, establishment, laying out or improvement of additional parking lots or facilities, and
  - (iii) thirdly, for such other purposes as the council may approve.

Levy of  
parking lot  
cost against  
defined area

- (g) (i) A by-law passed under the authority of this paragraph may provide, with the approval of the Municipal Board, that the capital cost

thereof, or any part thereof, the annual rental payable under a lease or any operating deficit in the previous year shall be levied against the lands in a defined area in the municipality that in the opinion of the council derive special benefit therefrom, and in that case the by-law shall have appended thereto a schedule establishing the portion of the cost that shall be levied against each parcel of land in the defined area.

- (ii) The entire cost chargeable to lands in the defined area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the parking lot or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the defined area.
- (iii) Where the capital cost or a part thereof is to be levied as provided in subclause (i), the council shall give notice of its application to the Municipal Board for approval of the by-law to the assessed owner of each parcel of land in the defined area.
- (iv) The Municipal Board shall not approve the by-law if a petition objecting to the levy of the capital cost against the defined area, signed by at least two-thirds of the assessed owners representing at least one-half of the assessed value of the land in the area, is filed with the Board at or prior to the hearing of the application.
- (v) Where a by-law establishing a parking lot provides for levying the capital cost thereof against land in a defined area, the net revenue derived from the operation of such parking lot shall be used to reduce the special levy to be made against the land in the defined area under subclause (iii) in the proportion the special levy made against each parcel of land bears to the total special levy, and after the debentures have been retired the net revenue derived from the operation of such parking lot shall be paid into the reserve fund set up under clause (e) or, if no reserve fund

has been set up under clause (e), a reserve fund shall be set up for the same purposes and such net revenue paid into the fund and applied in accordance with clause (f).

Enlargement  
of defined  
area against  
which cost  
may be  
levied

- (h) Where a by-law has been passed under this paragraph, which provides that the capital cost or any part thereof shall be levied against the lands in a defined area under clause (g), and the council is of the opinion that lands in any other area or areas have begun or may begin to derive a special benefit therefrom because of the passing, subsequent to the effective date of the by-law imposing the levy, of a by-law or amendment to a by-law under section 39 of the *Planning Act*, the council may by a further by-law passed with the approval of the Municipal Board, define the area or areas in which lands have begun or may begin to derive such special benefit and reapportion the balance of such costs mentioned in subclause (g) (i) and amend the schedule to the first-mentioned by-law so that such costs shall be apportioned against each parcel of land in all the defined areas that derive or that have begun or begin to derive such special benefit. R.S.O. 1970, c. 284, s. 352, par. 72; 1972, c. 1, ss. 1, 100 (2); 1976, c. 69, s. 9 (1).

R.S.O. 1980,  
c. 379

Independent  
parking  
authority  
authorized

56. For establishing an authority to be known as "The Parking Authority of the ..... of .....", and may entrust to the parking authority the construction, maintenance, control, operation and management of municipal parking facilities within the municipality.

Incorporation  
and members

- (a) A parking authority established under this paragraph is a body corporate and shall consist of three members appointed by the council of the municipality, each of whom shall be a person qualified to be elected as a member of the council of the municipality, and the members so appointed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed.

Council  
members not  
qualified

- (b) No member of the council is eligible to be appointed a member of the parking authority.

Vacancies

- (c) Where a vacancy in the parking authority occurs from any cause, the council shall appoint immediately a person, qualified as set out in this section, to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.



- (d) Any member is eligible for reappointment on the expiration of his term of office. Reappointment of members
- (e) The members may be paid such salary or other remuneration as may be fixed by by-law of the council. Salary of members
- (f) Upon the passing of the by-law establishing the parking authority, all the powers, rights, authorities and privileges conferred and duties imposed on the municipal corporation by any general or special Act with respect to the construction, maintenance, operation and management of municipal parking facilities shall be exercised by the parking authority, but subject to such limitations as the by-law may provide. Powers and duties of municipality transferred to authority
- (g) The parking authority shall submit to the council its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the parking authority and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the parking authority, pay out such money. Budget and expenditures
- (h) On or before the 1st day of March in each year, the parking authority shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement. Annual report
- (i) The municipal auditor shall be the auditor of the parking authority and all books, documents, transactions, minutes and accounts of the parking authority shall, at all times, be open to his inspection. Audit
- (j) The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the parking authority. Debentures
- (k) Upon the repeal of the by-law establishing the parking authority, the parking authority ceases to Abolition of authority

exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality. R.S.O. 1970, c. 284, s. 352, par. 73; 1976, c. 69, s. 9 (2, 3).

### *Special Undertakings*

Special  
undertakings

57. For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community recreation centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality that may or may not be in commemoration of the persons or any class thereof who served during any war in the armed forces of Her Majesty or Her Majesty's allies or in the auxiliary or ancillary services of such forces or in the merchant marine or any Corps of (Civilian) Canadian Fire Fighters for service in the United Kingdom.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor or for any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.
- (b) The council may authorize the erection of any such monument in any highway over which the corporation has jurisdiction.
- (c) Any such building may be established and equipped as a home or clubhouse for such persons or any class thereof or may be used for such purposes as the council considers proper.
- (d) The councils of two or more municipalities may enter into agreement for carrying out any of the purposes of this paragraph in any one of such municipalities.
- (e) The council may appoint such number of persons who are qualified to be elected as members of the council as it deems appropriate to act on its behalf as a board of management for any undertaking under this paragraph.

- (f) Where two or more municipalities have provided in an agreement under clause (d) for a board of management to act on their behalf, they may provide for the number of members that may be appointed to the board by each of the municipalities, but each member of the board shall be a person who is qualified to be elected as a member of the council of one of the municipalities.
- (g) The council may prescribe fees for admittance to or for the use of any undertaking under this paragraph.
- (h) A board of management appointed under this paragraph for an arena or community recreation centre shall have the power to let from year to year or for any time not exceeding ten years the right to sell refreshments within the arena or community recreation centre under such terms and conditions as the board may prescribe.
- (i) Members of a board of management appointed under this paragraph shall hold office at the pleasure of the council that appointed them and unless sooner removed shall hold office until the expiration of the term of the council that appointed them and until their successors are appointed and are eligible for reappointment.
- (j) Where a member of a board of management appointed under this paragraph has been removed from office before the expiration of his term, the council may appoint another eligible person for the unexpired portion of his term. R.S.O. 1970, c. 284, s. 352, par. 74; 1972, c. 1, s. 1; 1976, c. 69, s. 9 (5); 1978, c. 32, s. 16 (3); 1979, c. 63, s. 6 (2); 1979, c. 101, s. 5.

58. For entering into any agreement with Her Majesty in right of Ontario respecting regional economic development and, subject to the approval of the Minister, any ancillary or subsidiary agreements with any person required as a result of entering into such an agreement with Her Majesty. 1974, c. 3, s. 2.

Agreements  
respecting  
regional  
economic  
development

59. Without limiting the generality of section 193, and in addition to the powers set out therein, for acquiring by purchase or lease real property for the purpose of leasing such property to a legally qualified medical or dental practitioner on such terms and conditions as the council may determine, and such property may be so leased for residential, clinical or office purposes or a combination thereof.

Power to  
acquire real  
property for  
purpose of  
leasing to  
doctor or  
dentist

Exemption  
from  
taxation

60. For exempting from taxation, except for local improvement and school purposes, for a period not exceeding ten years, any premises actually used and occupied as a memorial home, clubhouse or athletic grounds by persons who served in the armed forces of Her Majesty or Her Majesty's allies in any war.

Lodging  
houses

61. For licensing, regulating and governing lodging houses and the keepers of lodging houses, and for revoking any such licence.

- (a) In this paragraph, "lodging house" means a nursing home and any house or other building or portion thereof in which persons are harboured, received or lodged for hire, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if the hotel, hospital, home or institution is licensed, approved or supervised under any other general or special Act.
- (b) A by-law passed under this section may provide for the licensing, regulating and governing of any class or classes of lodging house or lodging-house keepers, and may provide for the issue and revocation of licences for any class or classes of lodging house by the local board of health and for prohibiting the use of premises licensed under the by-law, except for the purposes for which the licence was issued, and may fix the licence fee for any class or classes of lodging house in accordance with a scale for each class or the number of inmates permitted in the lodging house.
- (c) A by-law of a county passed under this paragraph has no force in any local municipality in which a by-law passed by such local municipality is in force in respect of the same class or classes of lodging house. R.S.O. 1970, c. 284, s. 352, pars. 75-77.

Grants for  
patriotic  
purposes:

## 209. By-laws may be passed,

- (a) by the councils of counties, cities, separated towns and separated townships, and of local municipalities in unorganized territory,
- (i) for aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature,

aid to rifle  
associations  
and militia



- (ii) for aiding the establishment or maintenance <sup>bands of music</sup> of military bands of music;
- (b) by the councils of all municipalities,
  - (i) for aiding the establishment or maintenance <sup>war savings committees</sup> of local war savings or loan committees,
  - (ii) for the establishment and maintenance of <sup>civil defence</sup> emergency measures civil defence organizations, and
  - (iii) for providing moneys for emergency measures <sup>idem</sup> and civil defence, for the purposes of emergency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work within the municipality. R.S.O. 1970, c. 284, s. 353, *revised*.

**210.** By-laws may be passed by the councils of local municipalities:

R.S.O. 1970, c. 284, s. 354 (1), *part*.

*Animals and Birds*

1. For prohibiting or regulating the keeping of animals or any class thereof within the municipality or defined areas thereof and <sup>Prohibiting or regulating the keeping of animals</sup> for restricting, within the municipality or defined areas thereof,
  - i. the number of animals or any class thereof that may be kept by any person, and
  - ii. the number of animals or any class thereof that may be kept in or about any dwelling unit as defined in the by-law, or in or about any class of dwelling unit as defined in the by-law.
    - (a) In this paragraph and paragraphs 2, 3, 4, 5 and 6, "animal" includes birds and reptiles. 1979, c. 101, s. 6.
2. For regulating establishments for the breeding or board- <sup>Regulating animal breeding or boarding establishments</sup> ing of animals, or any class thereof, within the municipality or defined areas thereof. 1976, c. 69, s. 10 (1), *part*.
3. For providing sufficient yards and enclosures for the <sup>Providing pounds</sup> safekeeping of such animals as it may be the duty of the poundkeeper to impound. R.S.O. 1970, c. 288, s. 354 (1), par. 4.

Animals  
being at  
large or  
trespassing

4. For prohibiting or regulating within any part of the municipality or within any defined area thereof, or upon any defined highways therein, the being at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time or if the damages, fines and expenses are not paid according to law. 1976, c. 69, s. 10 (2).

Appraising  
the  
damages

5. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to law or the by-laws of the municipality.

Compensa-  
tion for  
impounding  
animals

6. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act with respect to animals impounded or distrained and detained in the possession of the distrainer.

(a) Any by-law passed by the council of a town, village or township under paragraphs 3 to 6 applies to any county highway or part thereof situate within such town, village or township.

#### *Television Antennae*

Television  
installers

7. For licensing, regulating and governing persons engaged in the installation, erection, construction, reconstruction, alteration or repair of structures used to carry television antennae, and for revoking any such licence.

#### *Explosives*

Regulating,  
storing and  
transporta-  
tion of  
explosives

8. For regulating the keeping, storing and transporting of,

(a) dynamite, dualin, nitro-glycerine or gunpowder;

(b) petroleum, gasoline or naphtha;

(c) detonators and detonator caps; and

(d) other dangerous or combustible, inflammable or explosive substances.

Fees for  
support of  
magazines

9. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause (a) of paragraph 8, and for requiring them to be stored in such magazines.

10. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause (a) of paragraph 8, and for acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines.

Erecting  
and  
maintaining  
magazines

11. For limiting the quantity of the substances mentioned in clause (a) of paragraph 8 that may be kept in any place other than such a magazine, and for regulating the manner in which they are to be kept or stored.

Limiting  
quantity to  
be kept

12. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause (a) of paragraph 8.

Prohibiting  
manufacture  
of explosives

13. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced.

Submission  
of plans of  
premises

14. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building, at which such manufacture or storage may be carried on.

Height and  
description  
of fences  
around  
buildings

15. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or is hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances. R.S.O. 1970, c. 354 (1), pars. 6-16.

Regulating  
business of  
manufacturing  
explosives

16. For granting licences for the carrying on of the business of manufacturing the substances mentioned in paragraph 8 or for storing them in quantities of more than eleven kilograms, and prescribing the time, not exceeding five years, during which the licences shall remain in force, provided that the licence fee shall not exceed \$25 a month for every month in which such business is carried on. R.S.O. 1970, c. 354 (1), par. 17; 1978, c. 87, s. 40 (4).

Licences  
for carrying  
on business

17. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept

Storing, etc.,  
of gasoline,  
etc.

for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

### *Fences*

Height and  
kind of  
fence

18. For prescribing the height and description of lawful fences.

Along  
highways

19. For prescribing the height and description of, and the manner of maintaining, keeping up and laying down, fences along highways or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

Division  
fences,  
apportion-  
ment of cost  
R.S.O. 1980,  
cc. 400, 242

20. For determining how the cost of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under the *Provincial Offences Act*, provided that, until a by-law is passed, the *Line Fences Act* applies.

Barbed wire  
fences

21. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land, and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material.

Water gates

22. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or watercourse. R.S.O. 1970, c. 284, s. 354 (1), pars. 18-23.

Fences  
around  
private  
outdoor  
swimming  
pools

23. For requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates, for prohibiting persons from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of a permit for any such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality.



- (a) A by-law passed under this paragraph may be made applicable to the whole municipality or to one or more defined areas thereof as set out in the by-law. 1973, c. 175, s. 5; 1980, c. 74, s. 10 (1).

*Fire Matters*

24. For providing fire-fighting and fire protection services and for establishing, operating, promoting and regulating life and property saving companies. Fire-fighting services, etc.

- (a) A municipality under this paragraph may establish, maintain and operate a fire department to serve only a defined area of the municipality, in which case, a special annual rate may be levied by the municipality on all the rateable property in the defined area sufficient to pay all or part of the costs incurred in the establishment, maintenance and operation of the fire department including any amounts owing in respect of debentures issued in connection therewith.
- (b) The power conferred by this paragraph may be exercised jointly by two or more municipalities upon such basis as to the distribution of cost as the municipalities may agree and each municipality shall issue its own debentures for its share of the capital cost of providing the joint fire service.
- (c) The power conferred by this paragraph includes the power,
- (i) to enter into agreements with any other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed or, failing agreement, as may be determined by the Municipal Board for the use of the fire-fighting equipment of the other municipality or person, or any of it, in the event of fire in any defined area of the municipality, and
  - (ii) to levy a special annual rate on all the rateable property in the defined area to defray the expenses incurred under and incidental to the agreement referred to in subclause (i),

but, notwithstanding any provision in the agreement, no liability accrues to the other municipality or person for failing to supply the use of the fire-fighting equipment or any of it. 1980, c. 74, s. 10 (2), *part.*

Emergency  
fire service  
plan

25. For adopting and participating in an emergency fire service plan and program established by the fire co-ordinator of a regional, district or metropolitan municipality, or by a county or district fire co-ordinator, upon such terms and conditions as the council considers appropriate, provided that notwithstanding the provisions of any such plan and program, no liability accrues to a municipality for failing to supply the use of fire fighting equipment in accordance with the plan and program. 1977, c. 48, s. 6.

Providing  
against  
accidents  
by fire

26. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding houses, lodging houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement.

Smoking  
in shops

27. For regulating smoking in retail shops in which ten or more persons are employed, or in any class or classes thereof, and for prohibiting smoking in such shops or any class or classes thereof, or in any part or parts thereof.

Prescribing  
times for  
setting fires  
and  
precautions

28. For prescribing for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting out fires.

Discharge of  
firearms

29. For prohibiting or regulating the discharge of guns or other firearms, air-guns and spring-guns or any class or type thereof in the municipality or in any defined area or areas thereof.

Sale of  
fireworks

30. For regulating the sale of fireworks or any class or classes thereof and for prohibiting the sale of fireworks or any class or classes thereof on any day or days during the year or to any person under such age as the by-law may prescribe.

Setting off  
fireworks

31. For prohibiting or regulating the setting off of fireworks or any class or classes thereof in the municipality or in any defined area or areas thereof and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit. R.S.O. 1970, c. 284, s. 354 (1), pars. 27-32.

Wooden  
buildings

32. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in the municipality. R.S.O. 1970, c. 284, s. 354 (1), par. 33; 1980, c. 74, s. 10 (3).

Fire in  
stables, etc.

33. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters'

shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire.

34. For prohibiting or regulating the carrying on of <sup>Dangerous manufactures</sup> manufactures or trades that may be considered dangerous in causing or spreading fire.

35. For regulating and enforcing the proper cleaning of <sup>Chimney cleaning</sup> chimneys.

36. For regulating the mode of removal and safekeeping <sup>Removal of ashes</sup> of ashes. R.S.O. 1970, c. 284, s. 354 (1), pars. 34-37.

37. For requiring buildings and yards to be put in a <sup>Guarding buildings against fire</sup> safe condition to guard against fire or other dangerous risk or accident.

38. For requiring each inhabitant to provide as many <sup>Fire buckets</sup> fire buckets in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires.

39. For authorizing appointed officers to enter at all <sup>Inspection of premises</sup> reasonable times upon any property in order to ascertain whether the provisions of the by-law are obeyed, and to enforce or carry into effect the by-law.

40. For suppressing fires, and for pulling down or demol- <sup>Preventing spreading of fire</sup> ishing buildings, or other erections when considered necessary to prevent the spread of fire.

41. For regulating the conduct and enforcing the assistance <sup>Enforcing assistance at fires</sup> of persons present and for the preservation of property at fires. R.S.O. 1970, c. 284, s. 354 (1), pars. 39-43.

42. For making such other regulations for preventing <sup>Regulations</sup> fires and the spread of fires as the council considers necessary.

- (a) By-laws passed under this paragraph and paragraphs 32 to 41 may be made applicable to the whole municipality or to one or more defined areas thereof as set out in the by-law. R.S.O. 1970, c. 284, s. 354 (1), par. 44; 1980, c. 74, s. 10 (5).

43. For authorizing the head of council or, in case of the <sup>Authority to call out help</sup> absence of the head of council, any member of the council, in the event of an emergency arising in the municipality by reason of timber or forest fires, to call out such number of inhabitants of the municipality as may be necessary to fight and put out any such

fires, and for fixing the amount of the remuneration to be paid to such inhabitants for the services rendered by them. 1980, c. 74, s. 10 (6), *part*.

Prohibiting  
incinerators  
in certain  
buildings

44. For prohibiting the installation, use and maintenance of incinerators for the burning of garbage or other refuse in any class or classes of buildings erected after the 1st day of September, 1966. R.S.O. 1970, c. 284, s. 354 (1), par. 45.

Designating  
fire routes  
and pro-  
hibiting  
parking  
thereon

45. Notwithstanding paragraph 125, for designating private roadways as fire routes along which no parking of vehicles shall be permitted and providing for the removal and impounding of any vehicle or vehicles parked or left along any fire route so designated at the expense of the owner thereof.

(a) For the purposes of this paragraph, "private roadway" means any private road, lane, ramp or other means of vehicular access to or egress from a building or structure and it may include part of a parking lot.

(b) Clause (a) of paragraph 117 applies to penalties provided by a by-law passed under this paragraph.

R.S.O. 1980,  
c. 198

(c) Subsection 147 (13) of the *Highway Traffic Act* applies to a by-law passed under this paragraph.

(d) The driver of a motor vehicle, not being the owner, is liable to any penalty provided in a by-law passed under this paragraph and the owner of the motor vehicle is also liable to such a penalty unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. 1978, c. 32, s. 17 (1).

### *Food and Fuel*

Regulating  
the delivery  
or exposure  
for sale of  
meat, etc.

46. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal.

Inspection  
of provisions

47. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops.



48. For authorizing the seizing and destroying of tainted and unwholesome articles of food. R.S.O. 1970, c. 284, s. 354 (1), pars. 46-48. Seizing tainted food

49. With the approval of the Municipal Board and within the limitations and restrictions and under the conditions prescribed by order of the Board: Power to buy and sell fuel and food

- i. For buying and storing fuel and such articles of food as may be designated by order of the Board and for selling them to dealers and residents of the municipality.
- ii. For acquiring land, erecting buildings, establishing, conducting and maintaining depots, stores, warehouses and yards and purchasing machinery, plant, appliances and equipment necessary for such purposes.
- iii. For appointing officers, clerks and servants to manage and conduct such businesses.
- iv. For making rules and regulations and doing all such other acts and things as may be necessary for the full and proper carrying out of such powers.
- v. For borrowing from time to time by the issue of debentures payable in not more than ten years from the date of issue the money necessary for such purposes.
  - (a) The by-law need not be assented to by the electors.
  - (b) After the by-law has been approved by the Municipal Board, it shall also be approved by the Lieutenant Governor in Council and may then be finally passed by the council. 1976, c. 69, s. 10 (3).

### *General*

50. For acquiring and expropriating land and selling or leasing the land for the purpose of sites for the establishment and carrying on of industries and of industrial operations and uses incidental thereto. Industrial sites

- (a) Where land has been acquired under this paragraph, and any debt is outstanding in respect of the acquisition of the land or in respect of any services applied to the land, other than services Application of receipts where debt outstanding

R.S.O. 1980,  
c. 250

supplied under the *Local Improvement Act*, all moneys received from the sale or lease of such land shall be used to retire the debt or shall be set aside as a fund to provide for the retirement of the debt unless on the vote of the council the use of such moneys is directed for another purpose; and, when the debt is retired or the amount in the fund is sufficient to provide for the complete retirement of the debt, the balance of such moneys on hand and any such moneys received thereafter shall be credited to the general funds of the municipality.

Use of  
land by  
municipality  
or sale to  
local board

R.S.O. 1980,  
c. 303

- (b) Any land acquired under this paragraph may be used by the municipality for the purposes of the municipality or may be sold to any local board, as defined in the *Municipal Affairs Act*, for the purposes of such board.

Disposal  
of land  
when no  
longer  
required

- (c) Where it appears to the council that any land acquired under this paragraph is no longer required for the purposes for which it was acquired or for the use of the municipality, the council may sell or dispose of the whole or any part of such lands for any purpose. 1976, c. 51, s. 10, *part*; 1976, c. 69, s. 10 (4).

By-laws  
authorizing  
undertakings  
and  
borrowing  
therefor

51. For authorizing the completion, improvement, alteration, enlargement or extension of any public utility undertaking, or any part or parts thereof, owned by the corporation and controlled and managed by the council or a public utility commission and for issuing debentures therefor.

Interpre-  
tation

- (a) In this paragraph,

(i) "public utility undertaking" means a water works or water supply system, sewage works, electrical power or energy generating transmission or distribution system, street lighting system, natural or artificial gas works or supply system, and a transportation system, and includes any lands, buildings or equipment required for the administration or operation of any such system,

(ii) "public utility commission" means a commission or board having the control and management of a public utility undertaking.

Assent of  
electors not  
required

- (b) No such by-law requires the assent of the electors.

- (c) The Municipal Board, upon application for approval with respect to works undertaken under this paragraph, may, in addition to the inquiry required by section 62 of the *Ontario Municipal Board Act*, have due regard to the financial position of the undertaking and to the additional revenue, if any, that might be derived as a result of the proposed work. Approval of O.M.B.  
R.S.O. 1980, c. 347
- (d) This paragraph applies to any municipality operating any such undertaking under the authority of a special Act, and any provision in such special Act requiring the assent of the electors does not apply to the borrowing of money for the purposes of this paragraph. Application of paragraph
- (e) This paragraph does not apply to a proposed work that the Ministry of Health has required a municipality to undertake, as provided in the *Public Health Act*, or that the Ontario Water Resources Commission has required a municipality to undertake, as provided in the *Ontario Water Resources Act*. Idem  
R.S.O. 1980, cc. 409, 361
- (f) The powers conferred by this paragraph may be exercised in respect of the whole municipality or any defined area thereof, and a special rate for the completion, improvement, alteration, enlargement or extension of any public utility undertaking under this section may be imposed upon all the rateable property in the municipality or in any such defined area. Defined areas
- (g) Land of an elementary school or secondary school as defined in the *Education Act* is liable to be specially assessed for the completion, improvement, alteration, enlargement or extension of any public utility undertaking under this section, notwithstanding the provisions of the *Assessment Act*. R.S.O. 1970, c. 284, s. 354 (1), par. 53; 1972, c. 1, s. 1; 1976, c. 69, s. 10 (5). Land of certain school boards  
R.S.O. 1980, cc. 129, 31

52. For acquiring, establishing, constructing, maintaining and operating a street lighting system. Street lighting systems

53. For requiring the owners or occupants of any designated class of building in the municipality or any defined area thereof to clear away and remove snow and ice from the roofs of such buildings and for requiring the owners or occupants of any designated class of building in the municipality or any designated area thereof to clear Removal of snow and ice from roofs and side-walks of occupied premises

away and remove snow and ice from the sidewalks on the highways in front of, alongside or at the rear of such buildings and for regulating when and the manner in which the same shall be done.

Removal of  
snow and ice  
from roofs  
and side-  
walks of  
unoccupied  
premises

54. For clearing away and removing snow and ice from the roofs of any designated class of unoccupied buildings in the municipality or any designated area thereof and for clearing away and removing snow and ice from the sidewalks on the highways in front of, alongside or at the rear of any designated class of unoccupied buildings or vacant lands at the expense of the owners and for collecting or recovering the expenses incurred in so doing in the manner provided by section 325.

Removal of  
snow and  
ice from  
sidewalks

55. For clearing away and removing snow and ice from the sidewalks on any highway or part of a highway or any class thereof in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, or any class thereof, at the expense of the owners, and for collecting or recovering the expenses incurred in so doing in any manner including the manner provided by section 325. R.S.O. 1970, c. 284, s. 354 (1), pars. 54-57.

Removal of  
snow and  
ice from  
sidewalks,  
etc., at  
municipa-  
lity's  
expense

56. Notwithstanding paragraphs 53 and 55, for providing for the clearing away and removal of snow and ice at the expense of the municipality from the sidewalks on the highways in front of, alongside or at the rear of buildings owned or occupied by any class or classes of persons, and from those portions of walkways between the highways or the public sidewalks on highways, as the case may be, and the lowest step of the principal place of entrance of such buildings. 1975, c. 56, s. 5 (2).

Right to  
enter  
adjoining  
lands

57. For permitting an owner or occupant of any building, fence or other structure or the agent or employee of such owner or occupant to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such building, fence or other structure but only to the extent necessary to effect such repairs, alterations or improvements, and every such by-law shall provide that the adjoining land shall be left in the same condition it was in prior to such entry. R.S.O. 1970, c. 284, s. 354 (1), par. 58; 1972, c. 124, s. 10 (1).

Sparring  
exhibitions  
and boxing  
matches

58. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief of police in a city or town, or the reeve in townships and villages.



59. For prohibiting, or for licensing, regulating and governing, the racing of motor vehicles or motorcycles, or one or more defined classes thereof, in the municipality or one or more defined areas thereof; and for prohibiting, or for licensing, regulating and governing, the holding of motor vehicle or motorcycle races, or one or more defined classes thereof, in the municipality or one or more defined areas thereof.

Motor  
vehicle and  
motorcycle  
racing

60. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers.

Corporation  
surveyor and  
engineers

- (a) An engineer so appointed and his assistants, in the performance of their duties, possess all the powers, rights and privileges that a surveyor possesses under section 6 of the *Surveys Act*.

Powers of  
engineer

R.S.O. 1980,  
c. 493

61. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them. R.S.O. 1970, c. 284, s. 354 (1), pars. 59-62.

Destruction  
of tussock  
moths

62. For entering into agreements with a condominium corporation incorporated under the *Condominium Act* for,

Agreements  
with  
condominium  
corporations  
re roads,  
sewers and  
water pipes  
R.S.O. 1980,  
c. 84

- i. maintaining and repairing roads on the condominium property,
- ii. clearing away and removing snow and ice from roads on the condominium property, and
- iii. maintaining and repairing sewer pipes and water pipes installed on the condominium property for connecting buildings and other structures on the property with the sewage or water works of the municipality and for maintaining and repairing fire hydrants installed on the property,

and the agreement may be upon such terms and conditions, including terms as to the payment of fees, as are agreed upon.

- (a) Where a municipality has entrusted the management of,

- (i) its water works to a public utilities commission, the commission may, with the approval of the council, enter into agreements with condominium corporations for the purposes, in relation to water works,

mentioned in subparagraph iii of this paragraph, or

- (ii) its sewage works and its water works to a public utilities commission, the commission may, with the approval of the council, enter into agreements for the purposes mentioned in subparagraph iii of this paragraph. 1978, c. 101, s. 4 (1).

Site for  
armoury

63. For acquiring land in the municipality for a drill-shed or armoury for any militia or volunteer corps having its headquarters in the municipality.

Treatment  
of  
alcoholics

64. For establishing, erecting and maintaining an institution for the treatment of alcoholics.

Markets

65. For establishing, maintaining and operating markets and for regulating such markets and any other markets located within the municipality.

(a) A by-law passed under this paragraph may,

- (i) provide for charging market fees to vendors in a market established by the council and for prohibiting persons from selling or exposing things for sale in such a market if the fee has not been paid, and
- (ii) regulate the hours of operation of any market within the municipality.

Regulating  
vending in  
streets, etc.

66. For prohibiting or regulating sales by retail in the highways or on vacant lots adjacent to them and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise.

(a) A by-law passed under this paragraph may be made applicable to the whole municipality or to any defined areas thereof.

Weigh  
scales

67. For erecting and maintaining weigh scales within the municipality or within an adjacent municipality, and charging fees for the use thereof. 1980, c. 74, s. 10 (6), *part*.

### *Health, Sanitation and Safety*

Bathing

68. For prohibiting or regulating the bathing or washing of the person in any public water in or near the municipality.

69. For requiring the maintenance of adequate and suitable heat for rented or leased dwelling or living accommodation that, as between tenant or lessee and the landlord, is normally heated by or at the expense of the landlord, for defining adequate and suitable heat for such purposes and for providing for the inspection of such dwelling or living accommodation.

Adequate  
heat in  
rented  
accommoda-  
tion

70. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide for the use of the workmen, employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them.

Conveniences  
to be provided  
by bulders

71. For providing blank forms for recording and reporting cases of contagious or infectious diseases, for placarding houses wherein such cases exist, and for taking such measures as may be considered necessary for preventing the spread of such diseases.

Contagious  
diseases

72. For requiring the use within the municipality or a defined area of it of dry earth closets.

Dry earth  
closets

73. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

Expenses  
of cleaning  
closets, etc.

(a) For such purpose, the corporation, its officers and servants have all the powers of the local board of health and its officers and servants.

Powers

(b) The council may provide for the expense incurred in such work by imposing in the by-law authorizing the work or in a separate by-law a fixed fee or graded fees varying according to the different kind of premises served, the time involved in service and such other matters as the council may consider applicable, and such fees shall be rated and assessed against the lands in respect of which such services are rendered in the collector's roll of the municipality and collected and recovered in like manner as municipal taxes.

Fixed or  
graded  
fees

(c) The council may provide that the collection, removal and disposal by the corporation of the contents of earth closets or other sanitary closets throughout the whole municipality, or in defined

Special rate,  
assessed  
value or  
monthly

areas of it, shall be done at the expense of the owners, householders or occupants of the land therein, and where such service is at the expense of the owner may impose upon such land a special rate according to its assessed value which shall be collected and recovered in like manner as municipal taxes, or may impose upon the owners, householders and occupants of any building on such land a monthly rate in lieu of such special rate which shall be collected and recovered in like manner as municipal taxes.

Filling up,  
draining,  
etc.,  
private  
drains

74. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots and the altering, relaying or repairing of private drains. R.S.O. 1970, c. 284, s. 354 (1), pars. 63-69.

Purchase  
of wet  
land

75. For purchasing any wet land in the municipality, the price of which, in case of Crown lands, shall be fixed by the Lieutenant Governor in Council, and for draining such land. 1980, c. 74, s. 10 (6), *part*.

Prohibiting  
littering  
of private  
or municipal  
property

76. For prohibiting the throwing, placing or depositing of refuse or debris on private property or on property of the municipality or any local board thereof without authority from the owner or occupant of such property.

Regulations  
for sewerage,  
etc.

77. For making any other regulations for sewage or drainage that may be considered necessary for sanitary purposes.

Sewage  
works

78. For establishing, acquiring, operating and maintaining sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewer system, and for regulating the operation and maintenance thereof.

Drain  
connections

79. For constructing service drains from a sewer to the line of the highway and for charging the owner of the premises for which the service drain is constructed the cost of such construction, which may be collected or recovered in like manner as taxes.

Closing and  
filling up  
cesspools,  
etc.

80. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cesspools, the continuance of which may, in the opinion of the council or the medical health officer, be dangerous to health.



81. For charging a fee for the inspection of plumbing, sewers, septic tanks, cesspools, water closets, earth closets, privies and privy vaults where, under this or any other Act, approval or a certificate of compliance or such inspection is required. R.S.O. 1970, c. 284, s. 354 (1), pars. 70-75. Plumbing inspection fees

82. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing the municipality or any part of it from being flooded by surface or other water flowing from such other municipality, or for an outlet for such water, and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired. 1980, c. 74, s. 10 (6), *part*. Purchase of lands to prevent flooding

83. For establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and other refuse or of ashes, garbage and other refuse, and for contracting with any person for the collection, removal and disposal by him of ashes, garbage and other refuse upon such terms and conditions as may be considered expedient, and for erecting and maintaining with the approval of the Ministry of Health such buildings, machinery and plant as may be considered necessary for the purposes of this paragraph. Collection, removal and disposal of garbage, etc.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor in respect of any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof. R.S.O. 1970, c. 284, s. 354 (1), par. 76; 1972, c. 1, s. 1.

84. For acquiring land in any local municipality or in territory without municipal organization for any of the purposes of paragraph 83. Acquisition of land for garbage disposal

- (a) No land shall be acquired in a local municipality under this paragraph without the approval of the local municipality, which approval may be granted upon such terms and conditions as may be agreed upon, or failing such approval or agreement, the approval of the Municipal Board, and no land shall be acquired in territory without municipal organization under this paragraph without the approval of the Municipal Board.
- (b) The Municipal Board, before giving its approval under this paragraph, shall hold a public hearing and shall give or cause to be given at least ten

days notice of the hearing to the clerk of the local municipality concerned and to such other persons in such manner as the Municipal Board may direct and the Municipal Board, as a condition to giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Municipal Board may appear necessary or expedient and the Municipal Board may order the amendment of any official plan or of any by-law passed under section 39 of the *Planning Act* to permit the use of the land for the purposes for which it is to be acquired.

R.S.O. 1980,  
c. 379

Special rate  
for cost

85. For the collection, removal and disposal by the corporation of garbage or of garbage and other refuse or of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal.

No land  
exempt

(a) Subject to clauses (c) and (d), no land is exempt from the special rate, notwithstanding anything to the contrary in any general or special Act or in any by-law.

Recovery  
of special  
rate

(b) The special rate may be collected or recovered in the manner provided by section 325.

Special  
rate on  
churches

(c) In the case of a place of worship, the council may by by-law provide that the special rate shall be imposed upon the land according to its assessed value exclusive of the assessed value of the buildings.

Rate on  
all rateable  
property

(d) A special rate to defray the expense of such collection, removal and disposal may be levied on all the rateable property in the municipality or the defined areas.

Monthly  
rates

86. For charging the owners, householders or occupants of any building in the municipality a monthly rate in lieu of the special rate for such collection, removal and disposal of ashes, garbage or other refuse and for providing that the monthly rate may be collected or recovered in the manner provided by section 325 and for the exemption of any class of land owners, householders or occupants from the monthly rate.

87. For regulating and inspecting the construction and erection of scaffolding and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys, or other structures, and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding.

Construction  
of scaffolding,  
etc.

88. For regulating and controlling the excavating of trenches and persons doing work in connection therewith and prescribing requirements in respect of the excavating and use of trenches for the protection of persons working therein; and for requiring the submission of plans of trenches and of the shoring and timbering thereof and for charging fees for the inspection and approval of such plans, and for providing for the issue of permits certifying to such approval without which permit no trench may be excavated and for fixing the fees for such permits and for revoking such permits. 1976, c. 69, s. 10 (7), *part*.

Excavating  
trenches

89. For requiring the installation and maintenance of safety devices for window cleaners, for inspecting such devices and for prohibiting any person from cleaning the outside of windows of buildings on which such devices are installed unless such devices are used.

Window  
cleaning  
safety  
devices

90. For regulating the construction, erection, alteration or repairing of water tanks and water towers whether on buildings or elsewhere, and for prohibiting the construction, erection, altering or repairing of them contrary to such regulations. 1980, c. 74, s. 10 (6), *part*.

Regulation  
of water  
tanks

91. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where considered requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order.

Maintaining  
public  
conveniences

92. For procuring investigations and reports as to water works or water supply systems, electrical power or energy generating, transmission or distribution systems, natural or artificial gas works or supply systems, sewer, sewer systems or sewage works, or transportation systems, and may issue debentures therefor.

Investiga-  
tions and  
reports as to  
utilities

- (a) It is not necessary to procure the assent of the electors to any by-law passed under this paragraph.
- (b) Instead of making a separate issue of debentures to defray the expenses of such investigation and report, the council may provide that such expenses

shall be included in the cost of the work and be paid out of the proceeds of any debentures issued therefor.

Extension  
of sewers  
into  
adjoining  
municipality

93. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon or, in case of failure to agree, as may be determined by arbitration.

(a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrator shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm, filtering plant or artificial means of sewage disposal that is contemplated, and whether the extension or connection should be allowed to be made.

R.S.O. 1980,  
c. 126

(b) Nothing in this paragraph authorizes the making of an open drain or sewer, or affects the *Drainage Act*, or limits any of the powers conferred on townships by that Act.

Slaughter  
houses

94. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, provided that in towns, villages and townships this paragraph does not apply to the slaughter of animals for the use of the person killing them or of his family.

### *Trailers and Trailer Camps*

Licensing  
of trailers

95. For licensing trailers located in the municipality, except in a trailer camp operated or licensed by the municipality, for thirty days or longer in any year and for prohibiting such trailers being located in the municipality, except in a trailer camp operated or licensed by the municipality, without a licence therefor.

Interpre-  
tation

(a) In this paragraph, "trailer" means any vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being



used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed.

- (b) No by-law passed under this paragraph applies to a trailer when located in the municipality only for the purpose of sale or storage. <sup>Application of by-law</sup>
- (c) Licence fees may be charged for every month or portion of a month that the trailer is located in the municipality and the licence fees, except for the first thirty days, may be made payable in advance, but no licence fee shall be more than \$20 per month. <sup>Licence fees</sup>
- (d) No licence fee shall be charged in respect of a trailer assessed under the *Assessment Act*, 1976, c. 69, s. 10 (7), *part*. <sup>Application of R.S.O. 1980, c. 31</sup>

96. For acquiring, establishing, maintaining and operating trailer camps or trailer parks and for acquiring land for such purposes and for installing such services for the use of the occupants of the trailer camps or trailer parks as the council considers expedient and for fixing the fees to be paid by the occupants of the trailer camps or trailer parks. <sup>Municipal trailer camps</sup>

- (a) In this paragraph, "trailer camp" or "trailer park" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.
- (b) Where a municipal corporation operates a trailer camp or trailer park, the corporation shall pay to the public school board, separate school board or secondary school board, as the case may be, for each child residing in a trailer in the trailer camp or trailer park and attending a school under the jurisdiction of the board such fees monthly as may be prescribed by the board concerned for non-resident pupils, but the fees shall not exceed the average cost per pupil of the maintenance of the school for the next preceding calendar year less legislative grants.

*Public Bus Transportation*

Bus franchises  
R.S.O. 1980,  
c. 309

97. Subject to the *Municipal Franchises Act*, for entering into agreement with any person for a period not exceeding ten years for granting to such person the exclusive right to maintain and operate buses, for the conveyance of passengers in a defined area of the municipality, over such highways in the area and at such rates for fares and charges and on such other terms and conditions as may be thought proper.

- (a) The agreement may provide that any deficit in operation shall be met by a special rate levied on all the rateable property in the defined area.
- (b) The defined area shall not include any part of the municipality covered by an agreement to which the corporation is a party respecting the furnishing of transportation facilities for passengers.
- (c) The agreement does not affect a licence granted under the *Public Vehicles Act*.
- (d) The rates for fares and charges may from time to time, but only once in any year, be increased or decreased by the Municipal Board on the application of the corporation in consequence of a deficit or surplus in the operation of the service.
- (e) It is sufficient compliance with subsection 3 (1) of the *Municipal Franchises Act* if a by-law passed under this paragraph receives the assent of the municipal electors in the defined area.

Public bus  
transporta-  
tion systems  
R.S.O. 1980,  
c. 198

98. Subject to the *Public Vehicles Act* and the *Highway Traffic Act*, for acquiring, establishing, maintaining and operating a public bus transportation system within the municipality and, subject to the approval of the council of any adjoining municipality, within the limits of such adjoining municipality, which by-laws, without limiting the generality of the foregoing may provide,

- i. that the right to maintain and operate buses for the conveyance of passengers within the municipality is exclusive as against all other persons, but such right does not affect the right of any public, separate or secondary school board or board of education to provide transportation for pupils,
- ii. for the acquisition, by purchase or otherwise, of the bus transportation facilities and equipment of any

- person operating buses for the conveyance of passengers within the municipality,
- iii. for the acquisition, by purchase or otherwise, of any real or personal property required for the establishment, operation, maintenance or extension of the system,
  - iv. for the transportation and conveyance of passengers throughout Ontario, whether by chartered trips or otherwise,
  - v. for fixing transportation fares and tolls and making regulations with respect to the operation and control of the system, and
  - vi. for entering into an agreement with any adjoining municipality with respect to the terms upon which public bus transportation shall be furnished by the municipality in such adjoining municipality.

### *Highways and Sidewalks*

99. For prohibiting or regulating coasting or tobogganing on the highways. Coasting and tobogganing

100. For prohibiting children from riding on the platforms of cars, or riding behind or getting on wagons, sleighs or other vehicles while in motion, and for preventing accidents arising from such causes. Prohibiting children from riding behind wagons, etc.

101. For allowing any person owning or occupying any building or other erection that by inadvertence has been wholly or partially erected upon any highway to maintain and use such erection thereon and for fixing such annual fee or charge as the council considers reasonable for such owner or occupant to pay for such privilege. Buildings encroaching on highway

- (a) Such fee or charge forms a charge upon the land used in connection therewith and is payable and payment of it may be enforced in like manner as taxes are payable and the payment of them may be enforced, but nothing herein affects or limits the liability of the municipality for all damages sustained by any person by reason of any such erection upon a highway.

102. For permitting the use of a portion of any highway or boulevard by the owner or occupant of land adjoining such highway or boulevard during building operations upon such land for the storage of materials for such building or for the erection of hoardings; for fixing and collecting a fee or charge Use of highway or boulevard during building operations

for such use according to the area occupied and the length of time of such occupation, and for regulating the placing of such materials or hoardings, the restoration of such highway or boulevard to its original condition, the payment of such fee or charge, and the giving of permits for such privilege. R.S.O. 1970, c. 284, s. 354 (1), pars. 88-94.

Projections

103. For permitting window air-conditioners, cornices, eaves, awning containers, awning covers, sills, brackets and other similar projections beyond the main walls of buildings to encroach upon a highway at such height above the grade thereof as established by council as the council may provide in the by-law. 1978, c. 32, s. 17 (2).

Encroachment on highway for refacing

104. For permitting existing buildings to encroach or further encroach upon a highway to such extent as may be necessary to provide for refacing any such building. 1976, c. 69, s. 10 (8).

Highways, boundaries and names

105. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof, on public or private property.

Procedures for changing name of highway

(a) A by-law changing the name of a highway has no effect until a copy of it, certified under the hand of the clerk and the seal of the corporation, has been registered in the proper land registry office.

(b) Before passing a by-law for changing the name of a highway,

(i) notice of the proposed by-law shall be published at least once a week for four successive weeks in a newspaper having general circulation in the municipality, and

(ii) the council shall hear any person who claims that he will be adversely affected by the by-law and who applies to be heard. 1978, c. 101, s. 4 (2).

Numbering of buildings, etc.

106. For numbering the buildings and lots along any highway, beach, park, reserve or any other property in the municipality that it is considered necessary to number by the council, and for affixing numbers to the buildings and for charging the owner or occupant with the expense incident to the numbering of his lot or property.

(a) Such expense may be collected in the same manner as taxes, and, if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.



107. For keeping, and every such council shall keep, a record of the highways, beaches, parks, reserves and of the numbers of the buildings, lots, and other property, if any, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection. 1980, c. 74, s. 10 (6), *part*.

Records of  
highways,  
etc.

108. For regulating and, subject to the *Municipal Franchises Act* and on such terms and conditions as the council considers expedient, for authorizing the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity across or along any highway or public place, or permitting any person supplying electricity for light, heat or power to lay down pipes or conduits for enclosing wires for the transmission of electricity under any highway or public place, provided that a by-law shall not be passed under this paragraph in violation of any agreement of the corporation. R.S.O. 1970, c. 284, s. 354 (1), par. 98.

Laying of  
poles, wires,  
pipes or  
conduits on  
street  
R.S.O. 1980,  
c. 309

109. Subject to the *Power Corporation Act*, for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along, any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon. R.S.O. 1970, c. 284, s. 354 (1), par. 99; 1973, c. 57, s. 19.

Laying  
pipes or  
conduits for  
electric  
wires  
R.S.O. 1980,  
c. 384

110. For authorizing any person supplying steam for heat or power or supplying cooling energy to lay down pipes or conduits for transmitting steam or cooling energy under the highways or public squares, on such terms and conditions as the council considers expedient.

Transmitting  
steam or  
cooling  
energy  
under  
highways

(a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation. R.S.O. 1970, c. 284, s. 354 (1), par. 100.

111. Notwithstanding the other provisions of this Act or any other general or special Act but subject to the *Power Corporation Act* and the *Public Utilities Act*, for authorizing and regulating,

Transmission  
poles, wires,  
etc.  
R.S.O. 1980,  
cc. 384, 423

- i. the erection and maintenance upon, across or along any highway or public place of poles, towers, wires, cables, amplifiers and other accessory equipment, and the construction and laying down of pipes, ducts and conduits for

enclosing wires, cables, amplifiers and other accessory equipment, for the purpose of transmitting electrical or electric impulses, signals and messages of every nature and kind, including those of alarm and protective systems, radio programs or parts thereof, and television programs or parts thereof, and

- ii. the placing and maintenance of such equipment upon and within any poles, towers, pipes, ducts and conduits then erected, constructed or laid down, with the consent of the owner and the body in which is vested the management and control of such poles, towers, pipes, ducts and conduits.

(a) For the purposes of this paragraph, "body" means Ontario Hydro in respect of its works and a local board, as defined in the *Municipal Affairs Act*, in respect of its works.

R.S.O. 1980,  
c. 303

(b) A by-law passed under this paragraph may be in respect of the whole of the municipality or a defined area or defined areas thereof, and any such area may be enlarged, reduced, dissolved or amalgamated at the discretion of the council and section 15 does not apply.

(c) Nothing in this paragraph authorizes the granting of an exclusive franchise or the establishment of a monopoly. R.S.O. 1970, c. 284, s. 354 (1), par. 101; 1972, c. 1, s. 104 (6); 1973, c. 57, s. 19.

Water and  
gas pipes  
in highways  
R.S.O. 1980,  
c. 309

112. Subject to the *Municipal Franchises Act*, for authorizing the laying down, maintenance and use of pipes and other necessary works for the transmission of water, gas or sewage on, in, under, along or across any highway under the jurisdiction of the council.

Driving,  
etc., upon  
sidewalks

113. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor.

Spitting on  
sidewalks,  
in public  
buildings,  
etc.

114. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances and in such other public places as may be designated in the by-law.

115. For prohibiting persons from soliciting or importuning, on a highway or in a public place, others to travel in or employ any vessel or vehicle, or to go to any hotel or boarding house or lodging house, or for regulating persons so employed.

Use of  
highways  
to solicit  
business

- (a) A by-law passed under the authority of this paragraph may be made applicable only to one or more highways or public places named therein or to any defined area.

116. For authorizing the erection of public telephone booths upon the highways or lands of the municipality upon such terms and conditions as may be agreed upon; and for making such annual or other charge for the privilege conferred as the council considers reasonable.

Telephone  
booths

117. Subject to the *Highway Traffic Act*, for regulating traffic on the highways and for prohibiting heavy traffic as defined in the by-law and the use of traction engines and the driving of cattle, sheep, pigs and other animals during the whole or any part of the day or night in certain highways and public places specified in the by-law, and for prohibiting traffic in any but one direction in highways that, in the opinion of the council, are too narrow for the passing of one vehicle by another or in which, in the opinion of the council, it is desirable that traffic should be limited to one direction.

Regulating  
traffic  
R.S.O. 1980,  
c. 198

- (a) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking, standing or stopping provisions of the by-law have been contravened. R.S.O. 1970, c. 284, s. 354 (1), pars. 102-107.

Expeditious  
procedures  
authorized  
for parking,  
standing or  
stopping  
offences

118. For,

Permit  
parking

- i. allowing the parking of motor vehicles or any class or classes thereof on designated parts of highways for specified periods and during specified hours pursuant to permits issued,
- ii. charging such fee as the council may determine for the privilege of parking for such periods and during such times as the by-law provides,
- iii. providing for the commencement, expiry and cancellation of permits and the refunding of the fee for the unexpired portion of the permit period,

- iv. prohibiting the parking, standing or stopping of motor vehicles on the designated highways or the designated parts of highways during specified hours except by authority of a permit, and
- v. providing for exemptions from parking, standing or stopping prohibitions of any by-law of the corporation regulating traffic where a permit is used.

R.S.O. 1980,  
c. 421

(a) A by-law passed under this paragraph that affects a highway designated as a connecting link or extension of the King's Highway under subsection 21 (1) of the *Public Transportation and Highway Improvement Act* has no effect until it is approved by the Minister of Transportation and Communications.

(b) Clause (a) of paragraph 117 applies with necessary modifications to a by-law passed under this paragraph.

Parking for  
handicapped  
persons

119. For exempting, pursuant to permits issued, the owners and drivers of vehicles operated by or carrying a physically handicapped person, as defined by the by-law, from any provision of a by-law passed by the council under this Act or under any other general or special Act for prohibiting or regulating the parking, standing or stopping of motor vehicles on any highway or part thereof under the jurisdiction of the council.

(a) A by-law passed under this paragraph,

- (i) may provide for the issuing of permits in respect of vehicles that are operated by or that carry a physically handicapped person, as defined in the by-law,
- (ii) may provide for the manner by which such vehicles shall be identified,
- (iii) may regulate or prohibit the parking, standing or stopping of motor vehicles in respect of which a permit has been issued pursuant to a by-law passed under this paragraph and the provisions authorized by this subclause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of motor vehicles



on a highway or part thereof under the jurisdiction of the council, and

- (iv) shall prohibit the improper use or acquisition of a permit or any decal or other identifying marker issued in connection with the permit. 1978, c. 101, s. 4 (3).

120. For authorizing and assigning stands on the highways and in public places for motor vehicles not kept for hire, and for motor vehicles and other vehicles kept for hire, and regulating the use of the stands, and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places for the protection or shelter of the drivers of such motor vehicles and other vehicles kept for hire, but no such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land. 1980, c. 74, s. 10 (6), *part*.

Stands for  
vehicles

121. For prohibiting the driving of a vehicle in a race and the driving of a vehicle at a speed in excess of 20 kilometres per hour on privately-owned parking lots upon which the public is invited to park vehicles, except privately-owned parking lots where a fee is charged for the privilege of parking vehicles.

Racing and  
speeding on  
parking lots

- (a) In this paragraph, "vehicle" means a vehicle as defined in the *Highway Traffic Act*.

R.S.O. 1980,  
c. 198

- (b) A by-law passed under this paragraph applies only to parking lots in respect of which the owner has filed with the clerk of the corporation written consent to the application of the by-law to his particular parking lot.

- (c) No such by-law is effective in respect of a parking lot unless there is erected at each entrance thereto a sign clearly indicating the speed limit for vehicles and the prohibition against the racing of vehicles. R.S.O. 1970, c. 284, s. 354 (1), par. 108; 1978, c. 87, s. 40 (4).

122. Subject to the *Highway Traffic Act*, for designating any highway or highways having a width of 4.25 metres or less and for prohibiting the driving of vehicles having greater widths than those prescribed in the by-law on such highway or highways.

Limiting  
width of  
vehicles on  
certain  
highways

- (a) No such by-law is effective in respect of a highway so designated unless there is erected at each entrance thereto a sign clearly indicating the

limitation on the width of vehicles permitted on such highway. R.S.O. 1970, c. 284, s. 354 (1), par. 109; 1978, c. 87, s. 40 (4).

Pedestrian  
ways or  
mallis

123. Subject to the approval of the Minister of Transportation and Communications, to establish all or any part of any street solely or principally as a way for the use of pedestrians and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods as may be specified. R.S.O. 1970, c. 284, s. 354 (1), par. 110; 1972, c. 1, s. 100 (2).

Safety  
zones

124. For setting aside and designating in a suitable visible manner, on any highway upon which street cars or buses are operated, any part or parts as a "safety zone" and for prohibiting motor or other vehicles from driving over or upon any such safety zone while any pedestrian is thereon or about to enter thereon. R.S.O. 1970, c. 248, s. 354 (1), par. 111.

Prohibiting  
parking on  
private or  
municipal  
property

125. For prohibiting the parking or leaving of motor vehicles,

- i. on private property without the consent of the owner or occupant of the property, and
- ii. on property owned or occupied by the municipality or any local board thereof without the consent of the municipality or local board, as the case may be.

(a) A by-law passed under this paragraph may provide for the removal or impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

R.S.O. 1980,  
c. 198

(b) Subsection 147 (13) of the *Highway Traffic Act* and clause (a) of paragraph 117 of this section apply, with necessary modifications, to a by-law passed under this paragraph.

(c) The driver of a motor vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph, and the owner of a motor vehicle is also liable to such a penalty unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner without the owner's consent.

- (d) Subject to clause (f), the driver or owner of a motor vehicle parked or left on private property is not liable to any penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the written complaint of the owner or occupant of the property given to a constable or officer appointed for the carrying out of the provisions of the by-law.
- (e) Where an owner or occupant of property affected by a by-law passed under this paragraph has posted signs stating conditions on which a motor vehicle may be parked or left on the property or prohibiting the parking or leaving of a motor vehicle on the property, a motor vehicle parked or left on the property contrary to such conditions or prohibition shall be deemed to have been parked or left without consent.
- (f) A special constable appointed under the *Police Act*, in respect of a particular property, to enforce a by-law passed under this paragraph shall be deemed to have the written authority of the owner or occupant of the property to enforce the by-law, and such special constable is not required to receive a written complaint before enforcing the by-law. R.S.O. 1980, c. 381
- (g) In this paragraph,
- (i) “owner” when used in relation to property means,
- (A) the registered owner of the property,
- (B) the registered owner of a condominium unit, whose consent shall extend only to the control of the unit of which he is owner and any parking spaces allotted to him by the condominium corporation or reserved for his exclusive use in the declaration or description of the property,
- (C) the spouse of a person described in sub-subclause (A) or (B),

R.S.O. 1980,  
c. 84

(D) where the property is included in a description registered under the *Condominium Act*, the board of directors of the condominium corporation,

(E) a person authorized in writing by the property owner as defined in sub-subclause (A), (B), (C) or (D) to act on the owner's behalf for requesting the enforcement of a by-law passed under this paragraph,

(ii) "occupant" means,

(A) the tenant of the property or part thereof whose consent shall extend only to the control of the land of which he is tenant and any parking spaces allotted to him under his lease or tenancy agreement,

(B) the spouse of a tenant,

(C) a person or a municipality, or a local board thereof, having an interest in the property under an easement or right of way granted to or expropriated by the person, municipality or local board whose consent shall extend only to the part of the property that is subject to the easement or right of way,

(D) a person authorized in writing by an occupant as defined in sub-subclause (A), (B) or (C) to act on the occupant's behalf for requesting the enforcement of a by-law passed under this paragraph.

Licences for  
wheeled  
vehicles

R.S.O. 1980,  
c. 198

126. Requiring all residents in the municipality owning and using any wheeled vehicle or any class or classes thereof, other than a motor vehicle and a trailer as defined in the *Highway Traffic Act* and a wheeled vehicle used for farming purposes, to obtain a licence therefor before using it upon any highway of the municipality.



(a) A by-law under this paragraph,

- (i) may limit the weight or size of loads that may be carried on wheeled vehicles to which the by-law applies,
- (ii) may regulate the issuing of the licences, and
- (iii) may fix, and provide for the collection of, an annual fee for such licences which may be in different amounts for different classes of vehicles. 1978, c. 101, s. 4 (4).

127. For prohibiting any person driving or in charge of a motor vehicle, other than a commercial motor vehicle, from allowing such motor vehicle to stand unattended unless it is locked in such a manner as to prevent its operation by any person not authorized by the owner, driver or person in charge.

Unlocked  
motor  
vehicles

- (a) In this paragraph, “motor vehicle” and “commercial motor vehicle” mean “motor vehicle” and “commercial motor vehicle” as defined in the *Highway Traffic Act*. 1980, c. 74, s. 10 (6), *part*.

R.S.O. 1980,  
c. 198

*Nuisances, Signs, etc.*

128. For regulating manufactures and trades that in the opinion of the council may prove to be or may cause nuisances of any kind, and, without restricting the generality of the foregoing, for prohibiting or regulating the erection or continuance of gas works, tanneries or distilleries or other manufactories or trades that, in the opinion of the council, may prove to be or may cause nuisances. 1972, c. 124, s. 10 (2), *part*.

Control of  
industrial  
nuisances

129. For prohibiting or regulating and inspecting the use of any land or structures within the municipality or any defined area or areas thereof for dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind.

Control of  
land used  
for disposal  
of refuse

(a) A by-law under this paragraph,

- (i) may establish a schedule of fees chargeable upon inspection of such regulated land or structures,
- (ii) may require the owners, lessees or occupants of such land or structures, at the expense of the owners, lessees or occupants, to cease using such land or structures for such pur-

poses, or to cover over any garbage, refuse, or domestic or industrial waste in any prescribed manner, whether or not such land or structures were so used before the passing of the by-law,

(iii) may define industrial or domestic waste.

(b) A by-law under this paragraph does not apply to the use of any land or structure by a municipality.

Storing  
motor  
vehicles for  
salvage

130. For prohibiting or regulating and inspecting the use of any land or structures for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal. R.S.O. 1970, c. 284, s. 354 (1), pars. 116, 117.

Fencing of  
vacant lots

131. For requiring vacant lots to be properly enclosed. 1980, c. 74, s. 10 (6), *part*.

Noise

132. For prohibiting or regulating, within the municipality or within any defined area or areas thereof, the ringing of bells, the blowing of horns, shouting and unusual noises, or noises likely to disturb the inhabitants.

P.A.  
systems,  
etc.

133. For licensing, regulating and governing the owners or operators of public address systems, sound equipment, loud speakers or similar devices when used on a highway, public lands or lands adjacent thereto, or when emitting sound thereto.

Nuisances

134. For prohibiting and abating public nuisances. R.S.O. 1970, c. 284, s. 354 (1), pars. 118-120.

Removal of  
pigeons

135. For empowering officers of the municipality upon the complaint of the owner or occupant of any premises, to enter upon such premises and the land and any buildings in the vicinity thereof for the purpose of trapping, removing or exterminating strayed pigeons that are causing annoyance to the owner or occupant or damage to such premises. 1980, c. 74, s. 10 (6), *part*.

Hauling  
dead horses,  
etc., through  
the streets  
in daylight

136. For prohibiting the hauling of dead horses, offal, night soil or any other offensive matter or thing along any highway during the hours of daylight.

Operation  
of pits and  
quarries

137. For prohibiting the carrying on or operation of a pit or quarry in any area in which the use of land is restricted to residential or commercial use by a by-law passed, or an official plan adopted, before the 1st day of January, 1959, provided no by-law passed under this paragraph shall

come into force until approved by the Municipal Board or shall apply to a pit or quarry made or established before the 1st day of January, 1959, except to prohibit the enlargement or extension of any such pit or quarry beyond the limits of the land owned and used in connection therewith on the 1st day of January, 1959. R.S.O. 1970, c. 284, s. 354 (1), pars. 121, 122.

138. For regulating the operation of pits and quarries<sup>Pits and quarries</sup> within the municipality and for requiring the owners of pits and quarries that are located within such distance of a road as is specified in the by-law and that have not been in operation for a period of twelve consecutive months to level and grade the floor and sides thereof and such area beyond their edge or rim as is specified in the by-law so that they will not be dangerous or unsightly to the public. 1978, c. 32, s. 17 (3).

139. For regulating the location, erection and use of<sup>Location of stables, garages, etc.</sup> stables, garages, barns, outhouses and manure pits.

140. For prohibiting the posting or exhibition of placards,<sup>Indecent placards, etc.</sup> play bills, posters, writing or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place. R.S.O. 1970, c. 284, s. 354 (1), pars. 124, 125.

141. For prohibiting or regulating signs and other ad-<sup>Signs</sup>vertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this paragraph may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,

(a) made to comply with the by-law; or

(b) removed by the owner thereof or by the owner of the land on which it is situate,

on or before the expiration of five years from the day the by-law comes into force.

142. A by-law passed under paragraph 141 may define<sup>Temporary signs</sup> a class or classes of signs or other advertising devices and may specify a time period during which signs or other advertising devices in a defined class may stand or be displayed in the municipality and may require the removal

of such signs or other advertising devices which continue to stand or be displayed after such time period has expired.

Production  
of  
plans

143. A by-law passed under paragraph 141 may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality.

- (a) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit.

Pulling down,  
etc., signs  
illegally  
erected

144. A by-law passed under paragraph 141 may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,

- (a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or
- (b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies. 1975, c. 56, s. 5 (3).

Attaching  
of things  
to property  
of public  
utility

145. For prohibiting or regulating the nailing or otherwise attaching of anything or the causing of anything to be so nailed or otherwise attached to or upon any property managed and controlled by a public utility commission or of a local board as defined in subclause (a) (ii) of paragraph 46 of section 208.

Pulling  
down of  
signs and  
notices

146. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed. R.S.O. 1970, c. 284, s. 354 (1), pars. 127, 128.



147. For prohibiting, regulating and inspecting the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not. Control of sewage

- (a) A person appointed by the council to carry out inspections under this paragraph may, for the purpose of carrying out such inspections, enter in or upon any land or premises except land or premises being used as a dwelling at any time without a warrant, and may take such tests and samples as are necessary for the purposes of the inspection. 1979, c. 63, s. 7.

*Trades and Businesses*

148. For requiring every dealer in coal who takes orders for coal for future delivery, and accepts payment in full or on account of such order, to deliver to the purchaser the coal so ordered within the time or times fixed by the by-law. Fixing time for delivery of coal

149. For licensing and regulating the owners or operators of public garages, and for fixing the fees for such licences, and for revoking such licences, and for imposing penalties for breaches of such by-law and for the collection thereof. Public garages, licensing, etc.

- (a) For the purpose of this paragraph, a public garage includes an automobile service station as defined in clause (a) of paragraph 151, a parking station or a parking lot or a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles. R.S.O. 1970, c. 284, s. 354 (1), pars. 130, 131.

150. For requiring the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for the sole use of vehicles operated by or conveying a physically handicapped person and in respect of which a permit has been issued under a by-law passed by the council under paragraph 119 and for prohibiting the use of such spaces by other vehicles. Parking facilities for handicapped persons

- (a) A by-law passed under this paragraph may specify the dimensions of parking spaces to be provided for

the sole use of vehicles operated by or carrying a physically handicapped person and for the number of such spaces to be provided by each owner or operator of a parking lot or other parking facility, which number may be based upon a proportion of the total number of parking spaces in the parking lot or parking facility to which the public has access. 1978, c. 101, s. 4 (5).

Automobile  
service  
stations in  
restricted  
areas

151. For licensing, regulating and governing the owners or keepers of automobile service stations located or erected within any defined area or areas or on land abutting on any defined highway or part of a highway in which area or areas or on which land the erection or location of garages to be used for hire or gain or gasoline and oil filling stations is prohibited by a by-law, and for fixing a fee not exceeding \$10 for such licence, and for providing that a licence shall not be granted to any person as an owner of a public garage located or erected within any such area or on any such land notwithstanding that prior to the passing of this section any such person may have been granted a licence as the owner of a public garage.

- (a) For the purposes of this paragraph, an automobile service station means a building or place where gasoline, oil, grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, sparkplugs and batteries for motor vehicles are stored or kept for sale, or where motor vehicles may be oiled, greased, or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.
- (b) No person owning or keeping an automobile service station licensed under this paragraph shall use or permit it to be used for the purpose of wrecking, parking, storing or selling motor vehicles, or, except in an enclosed building, for washing motor vehicles, or for vulcanizing tires or tubes or for exhibiting for sale any accessories mentioned in clause (a) except in an enclosed building, or for exhibiting the same for sale in any display window, or for performing therein any repairs to motor vehicles other than those mentioned in clause (a), or for storing and keeping for sale any article, accessory or merchandise of any kind other than those expressly mentioned in clause (a) hereof, and it is the duty of such owner or keeper to prevent the use of an

automobile service station for any such prohibited purpose.

- (c) The owner or keeper of an automobile service station guilty of any infraction of any of the provisions of clause (b) is subject to the penalties set forth in the by-law permitting the location or erection thereof or the licensing of the same as for an infraction of such by-law.

- (d) Nothing in this paragraph shall be deemed to authorize the location or erection of any automobile service station contrary to any by-law in force under section 39 of the *Planning Act* or a predecessor of such section.

R.S.O. 1980,  
c. 379

- (e) A licence may be required under this paragraph in addition to a licence under paragraph 149. R.S.O. 1970, c. 284, s. 354 (1), par. 132; 1972, c. 124, s. 10 (4).

152. For limiting the number of public garages and automobile service stations where gasoline is stored or kept for sale.

Limitation  
of number  
of garages,  
etc.

153. For licensing, regulating and governing the owners and operators of car washes, and for revoking such licences.

Car washes

- (a) For the purpose of this paragraph, a car wash means a building or place where motor vehicles are washed, cleaned or polished for a fee or charge.

- (b) This paragraph does not apply to an owner or operator licensed under a by-law passed under paragraph 149 or 151.

154. For regulating, controlling and inspecting heating and cooking appliances, or any classes thereof, the installation thereof and the storage of fuel for use in connection therewith.

Heating and  
cooking  
equipment

155. For licensing, regulating and governing persons engaged in the installation of hot air, hot water and steam heating equipment of any kind.

Persons  
installing  
heating  
equipment

156. For the purposes of any by-law passed under paragraph 154 or 155, or paragraph 6 of section 46 of the *Planning Act*, for adopting by reference to the Ontario Regulations as amended from time to time the codes and standards or the parts thereof as adopted and changed by the Ontario Energy Board by regulation under the *Ontario Energy Board Act*.

Adoption of  
codes and  
standards  
R.S.O. 1980,  
cc. 379, 332

**Lending  
libraries**

157. For licensing, regulating and governing lending libraries that are carried on or operated for the purpose of profit or gain.

- (a) The fee to be paid for the licence shall not exceed \$2.
- (b) Nothing in this paragraph applies to or affects the lending or circulation of books, magazines, periodicals or other printed works by any religious body or incorporated educational institution.

**Licensing  
and  
regulating  
self-service  
laundries,  
etc.**

158. For regulating and governing laundretorias and washing machines, dryers and dry cleaning machines for use by the public, including coin-operated washing machines, dryers and dry cleaning machines, and for licensing, regulating and governing persons carrying on the business of making available to the public the use of any such services or machines, and for revoking such licences. R.S.O. 1970, c. 284, s. 354 (1), pars. 133-139.

**Laundries**

159. For licensing, regulating and governing laundries.

- (a) A by-law passed under this paragraph shall not apply to or include individuals carrying on a laundry business in private dwelling houses.

**Massage  
parlours**

160. For licensing, regulating, governing and inspecting massage parlours and such by-laws may provide for the enforcement thereof through the medical health department or the police department of the municipality.

**Sandblasters,  
etc.**

161. For licensing, regulating and governing sandblasters and other persons who for gain use chemicals or pressurized air, water, steam, sand or other abrasives to clean or restore the exteriors of buildings or other structures. 1980, c. 74, s. 10 (6), *part*.

**Interpre-  
tation**

**211.**—(1) In this section and in any by-law passed thereunder,

- (a) “closed” means not open for the serving of any customer;
- (b) “shop” means a building or part of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers’ shops, beauty parlours, shoe repair shops, shoe shine shops



and hat cleaning and blocking businesses, but does not include a place where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house.

(2) Where two or more classes of trades are carried on in a shop and at least 70 per cent of the total gross sales of the shop is derived from one trade, such trade is the principal trade carried on in the shop, and the class of such shop shall be determined in relation to such principal trade.

Principal  
trade

(3) Where it is alleged that any person has contravened in any month any provision of a by-law passed under this section, the total gross sales of the shop for the purpose of determining the principal trade, if any, carried on therein is the total dollar volume of gross sales of goods and services made, whether for cash or credit or part cash and part credit, by any person in the whole of the shop in the preceding twelve months, and, if the shop has been in operation for less than twelve months, is the total dollar volume of gross sales of goods and services made, whether for cash or credit or part cash and part credit, by any person in the whole of the shop in the preceding month or months in which the shop was operated.

Gross sales

(4) Nothing in this section or in a by-law passed under it renders unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour or the serving of such customers during their continuance therein.

Exception  
as to  
customers  
entering  
before  
closing hour

(5) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on each or any day of the week at and during any time or hours between 6 o'clock in the afternoon of any day and 5 o'clock in the forenoon of the next following day.

By-law  
determining  
hours of  
closing

(6) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during any time or hours between 12.30 o'clock in the afternoon and 5 o'clock in the forenoon of the next following day.

Closing of  
shops for  
weekly  
half-  
holiday

(7) The council of a city, town or village may by by-law require that during the whole or any part or parts of the

Closing of  
shops for  
weekly  
holiday

year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during the whole of such day and until 5 o'clock in the forenoon of the next following day.

Closing of  
shops on  
holidays

(8) The council of a city, town or village may by by-law require that all or any class or classes of shops in the municipality shall be closed and remain closed on all or any of the following days:

R.S.O. 1980,  
c. 219

1. Any holiday as defined in the *Interpretation Act*.
2. Boxing Day.
3. Any day proclaimed by the head of the council of a local municipality as a civic holiday.

Powers of  
township  
councils

(9) The council of every township has, with respect to any part of the township designated in the by-law, all the rights and powers conferred by this section on the council of a city, town or village and may pass by-laws that apply only to the part of the township so designated.

Commence-  
ment and  
publication  
of by-laws

(10) A by-law passed under this section takes effect at a date named therein, being not less than one nor more than two weeks after its passing and shall before that date be published in such manner as to the council passing the by-law appears best fitted to ensure the publicity thereof.

Closing of  
shops in  
which  
several  
trades  
carried on

(11) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours and days during which the shop is by any such by-law required to be closed for the purpose of any one of such trades, unless it is shown by the occupier or other person having control of the opening and closing of such shop that, by reason of the principal trade being carried on in such shop, the shop is one of a class of shops that by the by-law is not required to be closed.

Exception  
as to sales by  
druggists

(12) A pharmaceutical chemist or druggist is not, nor is an occupier of or person employed in or about a shop in a village or township, liable to any penalty under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by the by-law for the closing of shops, but nothing in this subsection authorizes a person to keep open shop after that hour.

Supplying  
articles to  
lodgers, etc.

(13) Nothing in any such by-law renders the occupier of a premises liable to any penalty for supplying an article to a

person lodging in such premises, or for supplying an article required for immediate use by reason of an emergency arising from sickness, ailment or death, or for supplying or selling an article to a person for use on or in or about or with respect to a steamboat or sailing vessel that at the time of such supplying or selling is either in or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to a person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel, but nothing in this subsection authorizes a person to keep open shop after the hour appointed by such by-law for the closing of shops.

(14) A by-law passed by the council of a township for the closing of all or any class or classes of shops may, as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class or classes of shops in any other designated part of the same township.

By-laws  
containing  
different  
provisions  
for different  
localities

(15) Where an offence for which the occupier of a shop is liable under any such by-law to a penalty has in fact been committed by some agent or servant of the occupier, such agent or servant is liable to the same penalty as if he were the occupier.

Agent or  
servant  
liable to  
penalty

(16) Where the occupier of a shop is charged with an offence against any such by-law, he is entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before a provincial judge at the time appointed for hearing the charge, and, if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the provincial judge that he used due diligence to enforce the execution of the provisions of the by-law and that such other person committed the offence without his knowledge, consent or connivance, such other person may be convicted of such offence and is liable to the same penalty or punishment as if he were the occupier, and the occupier is exempt from any penalty.

Exemption  
of occupier  
on conviction  
of actual  
offender

(17) A council may amend or repeal any by-law, except a by-law relating to retail gasoline service stations passed on the application of not less than three-quarters in number of the occupiers of such service stations, passed under any predecessor of this section, whether or not such by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

Repeal of  
by-law

(18) If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the

Idem



occupiers of retail gasoline service stations to which a by-law passed upon the application of not less than three-quarters in number of the occupiers of such service stations relates are opposed to the continuance of the by-law, the council may repeal it, or may repeal it in so far as it affects such retail gasoline service stations.

When  
daylight  
saving  
time in  
effect

(19) A by-law passed by the council of a municipality under this section may provide that, so long as the time commonly observed in the municipality is one hour in advance of standard time, the times mentioned in this section and in the by-law shall be reckoned in accordance with the time so commonly observed and not standard time.

Form of  
by-law

(20) Any by-law passed under this section may require all classes of shops to close during certain hours or days, or both, and may exempt therefrom any class or classes of shops.

Fines

(21) Notwithstanding section 321, a by-law passed under this section may provide for imposing fines of not more than \$5,000, exclusive of costs, on every person who contravenes such by-law. R.S.O. 1970, c. 284, s. 355 (1-21).

Retail  
gasoline  
outlets

R.S.O. 1980,  
c. 216

**212.** In addition to any matter authorized by section 211, any by-law thereunder applicable to retail gasoline service stations, gasoline pumps and outlets in the retail gasoline service industry as defined in the *Industrial Standards Act* may,

- (a) provide that the by-law shall apply only in the part or parts of the municipality designated in the by-law;
- (b) require that during the whole or any part or parts of the year such retail gasoline service stations, gasoline pumps and outlets be closed and remain closed at and during any time or hours between 6 o'clock in the afternoon of any day and 7 o'clock in the forenoon of the next following day and between 6 o'clock in the afternoon of Saturday and 7 o'clock in the forenoon of the next following Monday; and
- (c) provide for the issuing of permits authorizing the retail gasoline service station, gasoline pump or outlet for which it is issued to be and remain open, notwithstanding the by-law, during the part or parts of the day or days specified in the permit. R.S.O. 1970, c. 284, s. 356.

Interpre-  
tation

**213.**—(1) In this section, “hotel” means a separate building or two or more connected buildings used mainly for the



purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not less than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as "boarding houses" or of furnishing living quarters for families and having a dining-room or restaurant commonly known as "apartment houses" or "private hotels".

(2) For the purposes of the sale of non-intoxicating drinks and beverages, cigars, cigarettes and tobacco and the conducting of an ice-cream parlour, restaurant or cafe, the keeper of a hotel shall not be required, Sale of soft drinks, etc.

(a) to obtain any licence issued by a municipal authority; or

(b) to comply with any by-law relating to early closing. R.S.O. 1970, c. 284, s. 357.

**214.** By-laws passed under section 211, 212 or 213 do not apply to service centres established on controlled-access highways under agreement with the Minister of Transportation and Communications. R.S.O. 1970, c. 284, s. 358; 1972, c. 1, s. 100 (2). Application of closing by-laws to service centres

**215.—**(1) With the approval of the Municipal Board, councils of local municipalities may, by by-law, define the class or classes of buildings to be erected or enlarged after the effective date of the by-law that impose or may impose a heavy load on the sewer system or water system, or both, by reason of which expenditures are or may be required to provide additional sanitary or storm sewer or water supply capacity that in the opinion of a council would not otherwise be required, and may impose upon the owners of such buildings a special charge or charges over and above all other rates and charges to pay for all or part of the cost of providing the additional capacity. Special charges to provide additional sewer or water supply capacity

(2) The special charge or charges under any by-law shall refer specifically to sewage works or water works as defined in section 218, or to both, as the case may be. Charges to refer to specific works

(3) The proceeds of the charge or charges authorized by any such by-law shall be deemed to be a reserve fund established under section 165. Application of proceeds

(4) The by-law may provide that the charge or charges imposed under it are a lien upon the land on which the build- Charges a lien on land

ing is erected, and may be collected in the same manner and with the same remedies as provided by this Act for the collection of real property taxes.

When  
charges may  
be made  
payable

(5) Any charge or charges to be imposed under the by-law may be made payable on an application for a building permit or at any time thereafter. R.S.O. 1970, c. 284, s. 359 (1-5).

Exemptions

(6) The following are exempt from any charge or charges imposed under the by-law:

1. Every building on land exempt from taxation under any general or special Act.
2. Every building on land in respect of which an agreement has been entered into with the municipality under section 36 of the *Planning Act* or any predecessor thereof.
3. Every building or any land in respect of which a contribution to provide sanitary or storm sewers or water supply facilities has been made within the ten years previous to the application for a building permit, to the extent of the contribution so made.
4. Every residential building having not more than two dwelling units.
5. Every building, other than a residential building, with an inside floor area of not more than 300 square metres. R.S.O. 1970, c. 284, s. 359 (6); 1978, c. 87, s. 40 (5).

R.S.O. 1980,  
c. 379

## **216. By-laws may be passed by the councils of local municipalities:**

Water  
canals in  
subdivisions

1. For accepting a conveyance of lands in a registered plan of subdivision used or intended to be used for or in connection with water canals and, when such lands have been conveyed, for cleaning, dredging and maintaining such canals, and providing and maintaining equipment for the circulation of water in them, and for defining an area and providing that the cost of such cleaning, dredging, maintenance and equipment and maintenance thereof shall be levied on the rateable property in the area, and the by-law may provide that the whole or part of such cost shall be assessed upon the lots abutting on such canals according to the frontage thereof, and, where only part of such cost is assessed on the lots abutting such canals, the balance of the cost shall be assessed and levied on the rateable property in the area.

2. For regulating and governing the use of water canals <sup>Regulating use</sup> and for limiting the speed at which any boat or other vessel may travel in such canals.

3. For permitting the owners or lessees of lots abutting <sup>Docks and slips</sup> water canals conveyed to the municipality to construct, maintain and use docks or slips in such canals and for making such annual or other charge for the privilege conferred by the by-law as the council considers reasonable, and for providing that, upon the termination of such privilege, the canal shall be restored to its former condition at the expense of the owner or lessee of the land to which the privilege is appurtenant by removing the dock or slip or otherwise as may be required by the by-law.

(a) Such annual or other charge and any expense incurred by the corporation in restoring the water canal to its former condition is payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced.

(b) The corporation is not liable for damages that may result from the construction, maintenance and use of any such dock or slip. R.S.O. 1970, c. 284, s. 360.

**217.**—(1) The council of a local municipality may pass <sup>Improvement area may be designated by by-law</sup> by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.

(2) Before passing a by-law designating an improvement <sup>Notice of intention</sup> area, notice of the intention of the council to pass the by-law shall be sent by prepaid mail to every person occupying or using land for the purpose of or in connection with any business in the area who is shown in the last revised assessment roll of the municipality as being assessed for business assessment within the meaning of the *Assessment Act*.

R.S.O. 1980,  
c. 31

(3) Unless a petition objecting to the passing of the by-law <sup>Petition objecting to by-law</sup> referred to in subsection (2), signed by at least one-third of the persons entitled to notice as set out in subsection (2), representing at least one-third of the assessed value of the lands in the area that is used as the basis for computing business assessment, is received by the clerk within two



months next following the latest day of the mailing of any such notices, the council may pass the by-law, but, if such a petition is received by the clerk within such time, the council shall not pass the by-law. R.S.O. 1970, c. 284, s. 361 (1-3).

Approval  
of  
O.M.B.

(4) Subject to subsection (3), where a petition objecting to the passing of a by-law referred to in subsection (2) signed by one or more persons entitled to notice as set out in that subsection is received by the clerk of the municipality within thirty days next following the latest day of the mailing of any of such notices, the by-law shall not come into force without the approval of the Municipal Board. 1980, c. 36, s. 3 (1).

Sufficiency  
of petition  
determined  
by clerk

(5) The sufficiency of the petition described in this section shall be determined by the clerk and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive. R.S.O. 1970, c. 284, s. 361 (4).

Board of  
Management

(6) A Board of Management established under subsection (1) is a body corporate and shall consist of such number of members appointed by council as the council considers advisable, at least one of whom shall be a member of the council and the remaining members shall be individuals assessed for business assessment in respect of land in the area or nominees of such individuals or of corporations so assessed. 1980, c. 36, s. 3 (3).

Term of  
office

(7) Each member shall hold office from the time of his appointment until the expiration of the term of the council that appointed him, provided he continues to be qualified, as provided in subsection (6). 1976, c. 69, s. 11 (2).

Vacancy

(8) Where a vacancy occurs from any cause, the council shall appoint a person qualified as set out in subsection (6) to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.

Idem

(9) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

Estimates

(10) A Board of Management established under subsection (1) shall submit to the council its estimates for the current year at the time and in the form prescribed by council and may make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board of Management and when money is so provided by the council the treasurer shall, upon



the certificate of the Board of Management, pay out such money to the Board of Management.

(11) The Board of Management shall not expend any moneys <sup>Expenditure of moneys</sup> not included in the estimates approved by the council or in a reserve fund established under section 165. R.S.O. 1970, c. 284, s. 361 (8-11).

(12) The Board of Management shall not borrow money and, <sup>Borrowing prohibited, restrictions on incurring indebtedness</sup> without the prior approval of the council, it may not incur any indebtedness extending beyond the current year.

(13) Section 149 of this Act and sections 64 and 65 of the *Ontario Municipal Board Act* apply to the giving of an approval of <sup>Assent of electors, etc.</sup> indebtedness by a council under subsection (12) as though the giving of the approval were the incurring of the indebtedness by the municipality. 1980, c. 36, s. 3 (4). <sup>R.S.O. 1980, c. 347</sup>

(14) On or before the 1st day of March in each year, a <sup>Annual report</sup> Board of Management shall submit its annual report for the preceding year to council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

(15) The municipal auditor shall be the auditor of each <sup>Auditor</sup> such Board of Management and all books, documents, transactions, minutes and accounts of a Board of Management shall, at all times, be open to his inspection.

(16) Upon the repeal of a by-law establishing a Board of <sup>Dissolution of Board</sup> Management, the Board ceases to exist and its undertakings, assets and liabilities shall be assumed by the municipality. R.S.O. 1970, c. 284, s. 361 (13-15).

(17) Subject to such maximum and minimum charges as the <sup>Special charge</sup> council may specify by by-law, the council shall in each year levy a special charge upon persons in the area assessed for business assessment sufficient to provide a sum equal to the sum of money provided for the purposes of the Board of Management for that area, together with interest thereon at such rate as is required to repay any interest payable by the municipality on the whole or any part of such sum, which shall be borne and paid by such persons in the proportion that the assessed value of the real property that is used as the basis for computing the business assessment of each of such persons bears to the assessed value of all the real property in the area used as the basis for computing business assessment.

(18) Notwithstanding subsection (17), the council may by by-law provide that the sum required for the purposes mentioned therein shall be levied as a special charge upon and shall be borne and paid by persons in the area assessed for business assessment <sup>Special charge where special benefit derived</sup>

who in the opinion of the council derive special benefit from the establishment of the area, and the sum chargeable to such persons shall be equitably apportioned among them in accordance with the benefits that, in the opinion of the council, accrue to them from the establishment of the area.

## Notice

(19) Before the council passes a by-law specifying maximum and minimum charges under subsection (17) or a by-law under subsection (18), notice of the proposed by-law shall be,

- (a) published at least once a week for four successive weeks, and the by-law shall not be passed until after the expiry or fourteen days following the day on which the notice was last published; or
- (b) given in the same manner as a notice of a proposed by-law under subsection (2), and the by-law shall not be passed until the expiry of thirty days next following the latest day of the mailing of any such notices.

## Objections

(20) Any person who would be liable to a special charge levied in accordance with a by-law proposed to be passed by the council of a municipality under subsection (17) specifying maximum or minimum charges or under subsection (18) may object to the proposed by-law by filing written notice of the objection with the clerk of the municipality before the expiry of the period mentioned in clause (19) (a) or (b), as the case may be.

Approval  
of  
O.M.B.

(21) Where an objection to a proposed by-law is made under subsection (20), the proposed by-law shall not come into force without the approval of the Municipal Board.

## Application

(22) Subsections (19), (20) and (21) do not apply to a by-law passed under subsection (17) or (18) to comply with an order of the Municipal Board under subsection (31).

Separate  
notices  
not  
required

(23) Notice of a proposed by-law required under subsection (19) may be given in the same notice as notice of a proposed by-law under subsection (2).

## Proviso

(24) Notwithstanding anything in subsection (17) or (18), where moneys borrowed by the municipality are provided in any year by the council for the purposes of the Board of Management and where only a portion of such moneys are required to be repaid by the municipality to the lender in that year or in any subsequent year, only the portion of the moneys required to be repaid to the lender in any such year together with any interest repayable in that year in respect of the total of such moneys shall be included in the sum to be provided in that year by the levy under subsection (17) or (18). 1980, c. 36, s. 3 (5).

(25) Any charge imposed under subsection (17) or (18) may be collected in the same manner and with the same remedies as provided by this Act for the collection of taxes upon business assessment. R.S.O. 1970, c. 284, s. 361 (17); 1980, c. 36, s. 3 (6). Manner of collection

(26) The council of a local municipality may pass by-laws for designating as an improvement area an area that includes all of an existing improvement area designated under subsection (1). 1978, c. 32, s. 18, *part*. Designation of enlarged improvement area

(27) Subsections (2), (3), (4) and (5) apply with necessary modifications to the passing of a by-law under subsection (26). Application of subss. (2-5)

(28) A by-law passed under subsection (26) shall not come into force until the 1st day of January next after its passing, or, where the approval of the Municipal Board is required before such by-law may come into force, until the day specified by the Municipal Board. 1980, c. 36, s. 3 (7). When by-law comes into effect

(29) Where a by-law passed under subsection (26) comes into effect, the existing improvement area mentioned in that subsection is dissolved, but the Board of Management established for that improvement area is continued and shall be the Board of Management for the new improvement area designated under the by-law. Board of Management continued

(30) The provisions of this section that apply to a Board of Management under subsection (1) or to a council or municipal auditor in respect of such a Board apply with necessary modifications to a Board of Management continued under subsection (29) and to the council of a local municipality in respect of such a Board over which it has jurisdiction and to the auditor of the municipality in respect of such Board. 1978, c. 32, s. 18, *part*. Application

(31) Where approval of the Municipal Board of a by-law passed under this section is required, the Municipal Board as a condition of giving its approval may by its order impose such restrictions, limitations and conditions with respect to such matter as may be necessary or expedient. Approval of O.M.B.

(32) A by-law designating an improvement area may be repealed to take effect upon the 31st day of December in the year in which it is passed. Repeal of by-law

(33) Notwithstanding anything in this section, subsections (2), (3) and (4) do not apply to, Non-application of subss. (2-4)

(a) a by-law passed under subsection (1) or (26) to comply with an order of the Municipal Board under subsection (31); or

- (b) a by-law passed under subsection (32). 1980, c. 36, s. 3 (8).

Minister of  
Housing  
may enter  
into  
agreements

(34) The Minister and a local municipality may enter into agreements for the provision of loans or grants to the municipality on such terms or conditions as are agreed upon for the purpose of the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the municipality or in any defined area thereof and for the purposes mentioned in paragraph 55 of section 208. 1978, c. 32, s. 18, *part*.

Interpre-  
tation

**218.**—(1) In this section,

- (a) “benefit” means an immediate benefit or deferred benefit accruing to owners or occupants of land and derived or derivable from the construction of sewage works or water works, and
- (i) “immediate benefit” means the benefit that accrues and is derived or derivable immediately upon completion of the works, and
- (ii) “deferred benefit” means the benefit that accrues upon completion of the works but which is not derived or derivable therefrom until a sewer or water main upon which the land will abut is constructed as part of the works;
- (b) “capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account;
- (c) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (d) “sewage service rate” means a charge for the operation, repair and maintenance of sewage works and includes a charge for depreciation, deferred maintenance or a reserve fund for any such purpose;
- (e) “sewage works” means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;



(f) "sewer rate" means a charge for the capital cost of sewage works;

(g) "water works" means any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works;

(h) "water works rate" means a charge for the capital cost of water works.

(2) Subject to the approval of the Municipal Board first being obtained, the council of a local municipality, in authorizing the construction of sewage works or water works, may by by-law provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the sewage works or water works a sewer rate or a water works rate, as the case may be, sufficient to pay for the whole or such portion or percentage of the capital cost of the works as the by-law may specify, and, with the like approval, such by-law may from time to time be amended or repealed.

Sewer, water  
works rate

(3) Where a sewer rate or water works rate is imposed under subsection (2), no part of the capital cost of the works shall be specially assessed under the *Local Improvement Act*.

Special  
assessment  
under  
R.S.O. 1980,  
c. 250

(4) A by-law passed under subsection (2) shall designate the land for which the owners or occupants are made liable for the sewer rate or water works rate imposed, and, where the land designated does not comprise all land within the municipality, the area thereof shall be defined in the by-law.

Land in  
respect of  
which rate  
imposed

(5) The land designated under subsection (4) may include not only land for which an immediate benefit accrues but also land for which a deferred benefit accrues.

Idem

(6) Where a sewer rate or water works rate is imposed for a deferred benefit, it shall be changed to a rate imposed for immediate benefit as soon as the immediate benefit is derived or derivable. R.S.O. 1970, c. 284, s. 362 (1-6).

Rate for  
deferred  
benefit

(7) A sewer rate shall be computed by any or all or any combination of the following methods:

Computation  
of sewer rate

(a) A metre frontage rate on the lands that receive an immediate benefit from the work.

- (b) A metre frontage rate on the lands that receive a deferred benefit from the work.
- (c) A hectarage rate or rates on any or all of the lands designated under subsection (4), which rates may differ as between lands that will receive an immediate benefit and lands that will receive a deferred benefit.
- (d) A mill rate on the assessed value of the lands designated under subsection (4).
- (e) A rate on that portion of the lands designated under subsection (4) that is connected to the sewage works based on the water rates or charges charged or chargeable in respect of such lands. R.S.O. 1970, c. 284, s. 362 (7); 1978, c. 87, s. 40 (6).

Computation  
of water  
works rate

- (8) A water works rate shall be computed by any or all or any combination of the methods referred to in clauses (7) (a) to (d).

Revenue  
from rates

- (9) The revenue derived in any year from a rate imposed under subsection (2) shall be applied and used towards payment of principal and interest due in that year upon debentures issued for the works for the capital cost of which the rate is imposed, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate.

Sewer or  
water works  
rate for  
cost of  
existing  
works

- (10) Where in a local municipality there is land that has not or the owners or occupants of which have not been and are not assessable or taxed with respect to an existing sewage works or water works except in the same manner and to the same extent as all other owners or occupants of land within the municipality or within an area established under clause (f) of paragraph 51 of section 210 have been or are assessable or taxed and a sewer or water main forming part of such existing sewage works or water works is to be constructed by means of which an immediate benefit from the existing works accrues to the owners or occupants of such land, the council may, by by-law passed with the approval of the Municipal Board, provide for imposing upon the owners or occupants so benefitted a sewer rate or water works rate sufficient to pay for such portion or percentage of the capital cost of the existing sewage works or water works as the by-law may specify.

Idem

- (11) A rate may be imposed under subsection (10) notwithstanding that the capital cost of the existing works has in whole or in part been paid.

(12) The revenue from the sewer rate or water works rate imposed under subsection (10) if not required for payment of any part of the outstanding capital cost of the existing sewage works or water works shall be applied and used only for future capital improvements of the existing sewage works or water works, as the case may be.

Revenue  
from rates  
imposed  
under  
subs. (10)

(13) A rate imposed under subsection (10) shall be separate from and in addition to the rate, if any, imposed under subsection (2) upon the same owners or occupants with respect to the works to be constructed to form part of the existing works. R.S.O. 1970, c. 284, s. 362 (8-13).

Rate under  
subs. (10) in  
addition to  
rate under  
subs. (2)

(14) The council of a local municipality for the purposes of subsections (2) and (10) may, by by-law passed with the approval of the Municipal Board,

Rate  
structure

- (a) establish a sewer rate structure or a water works rate structure upon which the sewer rates or water works rates imposed under subsection (2) or (10) shall be based and calculated, and, in establishing the rate structure, the council shall have regard to differentiating between the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that rates are imposed upon a basis that is equitable and just, and, with the like approval, a by-law establishing the rate structure may from time to time be amended or replaced;
- (b) provide for the exemption or partial exemption from a metre frontage rate and for the termination of such exemption or partial exemption upon,
  - (i) lands at the junction or intersection of streets or highways, or
  - (ii) lands that are triangular or irregularly shaped, or
  - (iii) lands, in respect of a sewer rate only, that, because of the nature of the terrain or the elevation of the sewer, do not derive the same benefit as other lands abutting on the sewer, or
  - (iv) lands having frontages in excess of thirty metres and used for agricultural purposes or residences in connection with such agricultural purposes,

upon a basis that is equitable and just. R.S.O. 1970, c. 284, s. 362 (14); 1978, c. 87, s. 40 (7).

**Commutation** (15) Where a by-law passed under subsection (14) provides for a frontage rate, the council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lands are liable to a frontage rate may commute such frontage rate for a payment in cash.

**Sewage service rate** (16) The council of a local municipality may by by-law provide for imposing upon owners or occupants of land who use sewage works a sewage service rate.

**Idem** (17) A sewage service rate may be imposed under subsection (16) notwithstanding that,

(a) a sewer rate has also been imposed with respect to the capital cost of the same works; and

(b) the work with respect to which it is imposed was constructed under the *Local Improvement Act* or any other general or special Act. R.S.O. 1970, c. 284, s. 362 (15-17).

R.S.O. 1980,  
c. 250

**Sewage service rate structure**

(18) The council of a local municipality for the purposes of subsection (16) may by by-law establish a sewage service rate structure upon which sewage service rates shall be based and calculated and, in establishing the rate structure, the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage service rates are imposed upon a basis that is equitable and just, and where the sewage service rate is based on the water rate it shall be collectable in the same manner as water rates and shall be deemed to be a user charge and no property shall be exempt from such charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. 1976, c. 69, s. 12.

R.S.O. 1980,  
c. 31

**Collection of rates**

(19) The council of a local municipality may by by-law establish systems for,

(a) fixing times, periods and frequencies at and for which sewer rates or water works rates imposed under subsection (2) or (10) and sewage service rates imposed under subsection (16) shall be payable, and they may be yearly, half-yearly, quarterly or bi-monthly;

(b) allowing discounts for prompt payment of such rates or for adding penalties for non-payment by due date;



- (c) appointing persons, corporations or agencies to have charge of and the power and responsibility for billing and collecting such rates;
- (d) billing and collecting such rates and for co-ordinating such billing and collecting with the billing and collecting of other kinds of rates or charges imposed by or for the corporation;
- (e) any other relevant matter or thing.

(20) The council of a local municipality may by by-law <sup>Idem</sup> require any public utilities commission or local board that supplies water to the inhabitants of the municipality to collect such portion of any sewer rate or sewage service rate as is computed by the method referred to in clause (7) (e).

(21) A sewer rate or water works rate imposed under sub- <sup>Rates a charge on land</sup> section (2) or (10) and a sewage service rate imposed under subsection (16) upon any owner or occupant of land is a lien and charge upon the land, and, if the rate or any part thereof remains unpaid after due date, the amount unpaid may be collected by distress upon the goods and chattels of such owner or occupants, or the clerk of the municipality, upon notice to him of the amount due, the person by whom it is due and the land upon which a lien is claimed, shall enter the same upon the collector's roll, and the collector shall proceed to collect it in the same way, as nearly as may be, as municipal taxes are collectable.

(22) The board of an elementary school or secondary <sup>Liability of school boards</sup> school as defined in the *Education Act* is liable to a sewer rate or a water works rate imposed under subsection (2) or (10) and to a sewage service rate imposed under subsection (16), notwithstanding the provisions of the *Assessment Act*. R.S.O. 1970, c. 284, s. 362 (19-22). <sup>R.S.O. 1980, cc. 129, 31</sup>

**219.**—(1) Councils of local municipalities may pass by- <sup>Sewer and water connections</sup> laws requiring owners of buildings or any class or classes of buildings in the municipality or in any defined area thereof to connect the said buildings or class or classes of buildings to the sewage works or water works of the municipality. 1973, c. 83, s. 7, *part*.

(2) A by-law passed under subsection (1) may provide for <sup>Exemption from connecting</sup> exempting owners of buildings, or any such class or classes thereof as may be specified in the by-law, in the municipality or in any defined area thereof from the application of the provisions of the by-law requiring the connection of such buildings or such class or classes thereof to the sewage works

or water works of the municipality upon payment by the owner to the municipality of such amounts or of amounts computed by such method as may be provided for in the by-law, and the amounts or method of computation provided for may be different for owners of different classes of buildings, and the by-law may provide for the manner in which and the period for which the payments shall be made. 1978, c. 101, s. 5.

May be  
installed by  
municipality

(3) If the owner of a building affected by a by-law passed under this section fails to make a connection required by the by-law within nine months after the municipality has sent notice to him by registered mail to his last known address requiring the connection to be made, the municipality may make the connection at the expense of the owner, and for this purpose may enter in and upon the property of the owner.

Recovery of  
cost

(4) A notice sent under subsection (3) shall advise the owner that if he fails to make the connection as required, the municipality has the right to make it at his expense and to recover the expense by action or in like manner as municipal taxes.

Extension of  
time

(5) Upon the application of the owner, the council may grant an extension of not more than two years from the end of the nine-month period provided for in subsection (3) within which the connection is to be made, provided that not more than two extensions may be granted in respect of any building.

Loans

(6) A by-law passed under this section may provide for the making of loans by the municipality to owners to whom a notice has been sent under subsection (3) to pay for the whole or any part of the cost of making a connection required by the by-law, which loans may be made on such terms and conditions as the council may prescribe.

Loan a lien  
on land

(7) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Certificate

(8) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect

of which the loan has been made sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. 1973, c. 83, s. 7, *part*.

**220.** By-laws may be passed by the councils of cities and towns for placing the control and management of sewage works under a commission established under the *Public Utilities Act* but the by-law shall not be passed without the assent of the electors. 1980, c. 74, s. 13.

Commission may manage sewage works  
R.S.O. 1980, c. 423

**221.**—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing and inspecting body-rub parlours and for revoking or suspending any such licence and for limiting the number of licences to be granted, in accordance with subsection (3). 1975, c. 56, s. 8, *part*.

Licensing, regulating, etc., body-rub parlours

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices. 1978, c. 17, s. 1 (1).

Signs, advertising, etc.

(3) Notwithstanding subsection 110 (7), a by-law passed under this section may define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted. 1975, c. 56, s. 8, *part*; 1978, c. 17, s. 1 (2).

Defined areas, limitation on numbers

(4) A by-law passed under this section may provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Construction and equipment of premises

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law under this section. 1975, c. 56, s. 8, *part*.

Entry

Age  
restriction

(6) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the body-rub parlour or any part thereof.

*Prima  
facie  
proof*

(7) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that services described in this section are provided in premises or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is a body-rub parlour.

Other  
powers not  
affected

(8) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation. 1978, c. 17, s. 1 (3).

Interpre-  
tation

(9) For the purposes of this section,

(a) "body-rub" includes the kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means, of a person's body or part thereof but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and

(b) "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario. 1975, c. 56, s. 8, *part.*

Licensing,  
regulating,  
etc.,  
adult enter-  
tainment  
parlours

**222.**—(1) By-laws may be passed by the councils of all municipalities for licensing, regulating, governing, classifying and inspecting adult entertainment parlours or any class or classes thereof and for revoking or suspending any such licence and for limiting the number of such licences to be granted, in accordance with subsection (3).

Signs,  
advertising,  
etc.

(2) A by-law passed under this section may provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices,



including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices.

(3) Notwithstanding subsection 110 (7), a by-law passed under this section may define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted.

Defined  
areas,  
limitation  
on numbers

(4) A by-law passed under this section may provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law.

Construc-  
tion and  
equipment  
of premises

(5) Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law passed under this section has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of a by-law passed under this section.

Entry

(6) Notwithstanding subsection 110 (3) and section 211, a by-law passed under this section may regulate the hours of operation of adult entertainment parlours or any class or classes thereof.

Hours of  
operation

(7) A by-law passed under this section may prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under this section from permitting any person under the age of eighteen years to enter or remain in the adult entertainment parlour or any part thereof. 1978, c. 17, s. 2, *part.*

Age  
restriction

(8) By-laws passed under this section do not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under the *Theatres Act* or licensed under a by-law passed under section 221 of this Act. 1978, c. 104, s. 1.

Non-  
application  
of by-laws  
R.S.O. 1980,  
c. 498

(9) In this section,

Interpre-  
tation

(a) "adult entertainment parlour" means any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods or

services appealing to or designed to appeal to erotic or sexual appetites or inclinations;

- (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) "to provide" when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and "providing" and "provision" have corresponding meanings;
- (d) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
- (e) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) "services designed to appeal to erotic or sexual appetites or inclinations" includes,
  - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
  - (ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

*Prima  
facie  
proof*

(10) For the purpose of any prosecution or proceeding under a by-law passed under this section, the holding out to the public that goods or services described in this section are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

Other  
powers not  
affected

(11) Nothing in this section affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation. 1978, c. 17, s. 2, *part.*

## 223. By-laws may be passed by the councils of cities:

Public bath  
premises

1. For licensing, regulating and governing owners or keepers of any class or classes of public bath premises

operated for profit, and for revoking any such licence.  
R.S.O. 1970, c. 284, s. 369.

**224.** By-laws may be passed by the councils of cities and of local municipalities, other than cities, situate within ten miles of a city having a population of not less than 100,000:

1. For licensing, regulating and governing the keepers of shops or places where animals or birds for use as pets are sold or kept for sale. R.S.O. 1970, c. 284, s. 372.

Licensing,  
regulating  
and  
governing  
pet shops

**225.** By-laws may be passed by the councils of counties:

R.S.O. 1970, c. 284, s. 373, *part.*

1. For granting aid to owners of cattle, horses, goats, sheep or swine for losses caused by rabies, not in excess of the following rates for each animal:

Aid for  
animal losses  
due to rabies

cattle.....	\$250
horses.....	100
goats.....	40
sheep.....	40
swine.....	40

2. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs and staves.  
R.S.O. 1970, c. 284, s. 373, pars. 2, 3.

Protecting  
booms

3. For acquiring lands in the county and erecting thereon farm and other buildings and for establishing, developing, improving, equipping, operating and maintaining such lands and buildings as a county farm for educational, experimental and other purposes in the promotion and advancement of agriculture in all its branches, and for the issue of debentures therefor, other than for the expenses of operation and maintenance.

Establish-  
ment of  
county farms

- (a) It is not necessary to obtain the assent of the electors to a by-law passed under this paragraph.
- (b) A county council that has established a county farm under this paragraph may enter into agreements with the Minister of Agriculture and Food for its development, improvement and equipment and for its operation and maintenance by or in conjunction with the Ministry of Agriculture and Food for such periods and upon such terms and conditions as from time to time may be agreed.  
1976, c. 69, s. 14.

## Fences

4. For the exercise in respect of fences along highways under the jurisdiction of the council of the powers conferred upon the councils of local municipalities by paragraph 19 of section 210.

Regulating  
erection of  
poles, towers,  
wires, etc.,  
on county  
roads  
R.S.O. 1980,  
c. 309

5. Subject to the *Municipal Franchises Act*, for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under, the highways under the jurisdiction of the council. R.S.O. 1970, c. 284, s. 373, pars. 5, 6.

Refuse from  
grass or  
clover seed

6. For compelling the destruction or regulating the disposal of the refuse obtained in the process of cleaning grass or clover seed. R.S.O. 1970, c. 284, s. 373, par. 8.

7. In respect of highways under the jurisdiction of the council,

Licensing  
livery  
stables,  
etc.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates  
of  
fare

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

Regulating  
traffic

(c) for the exercise of the powers conferred upon the councils of local municipalities by paragraph 117 of section 210. 1975, c. 56, s. 10.

Installation  
of services  
on county  
land

8. For installing services in land owned by the county in any municipality situated in the county, subject to the approval of the local municipality in which the land is situated, to assist in the disposal of the land for building purposes.

Prohibiting  
unauthorized  
parking on  
county  
property

9. For the exercise, in respect of property of the county, of the powers conferred upon the councils of local municipalities in respect of property of such municipalities by paragraph 125 of section 210 and the provisions of such paragraph apply with necessary modifications. R.S.O. 1970, c. 284, s. 373, pars. 11, 12.

**226.** By-laws may be passed by the councils of townships:

R.S.O. 1970, c. 284, s. 376, *part.*



1. For authorizing the annual dues of members of any farm organization approved by the Minister of Agriculture and Food to be entered in the collector's roll and collected in the same manner as taxes.

Addition to collector's roll of dues of members of farm organizations

- (a) A by-law under this paragraph applies only where the annual dues for all members of the farm organization are uniform.
- (b) A by-law under this paragraph remains in force until amended or repealed and it is not necessary to pass such by-law annually.
- (c) Upon receipt by the clerk of the township, before the certification of the collector's roll, of written notice from a member of such a farm organization instructing that the annual dues of such member be collected in the same manner as taxes for which he is liable, the dues of such member shall be entered in the collector's roll in a special column designated by the name of the farm organization.
- (d) A member who has given a notice under clause (c) may by similar notice require the clerk of the township to discontinue the collection of dues.
- (e) Such dues do not form a charge upon land and are not subject to a penalty for non-payment.
- (f) The treasurer of the township shall deposit the dues collected in a special account or accounts and shall from time to time pay such dues to the treasurer of the proper farm organization.

**227.** By-laws may be passed by the councils of towns, villages and townships and by boards of commissioners of police of cities:

R.S.O. 1970, c. 284, s. 377, *part.*

1. For licensing, regulating and governing teamsters, car-  
 ters, draymen, owners and drivers of cabs, buses, motor  
 or other vehicles used for hire or any class or classes  
 thereof; for establishing the rates or fares to be charged  
 by the owners or drivers of such vehicles for the conveyance  
 of goods or passengers either wholly within the municipi-  
 tality or to any point not more than five kilometres beyond  
 its limits, and for providing for the collection of such  
 rates or fares; for limiting the number of cabs, buses,  
 motor or other vehicles used for hire, or any class or  
 classes thereof; and for revoking any such licence.

Teamsters,  
 cab owners,  
 cab drivers,  
 vehicles for  
 hire, etc.

Saving

- (a) No by-law passed under this paragraph by the council of the City of Mississauga shall apply to owners and drivers of cabs, other than cabs licensed by the said council, while such cabs are engaged in the conveyance of goods or passengers, if such conveyance commenced at the Toronto International Airport.

Cabs,  
destinations  
outside  
municipality

- (b) A by-law passed under this paragraph for the licensing of owners and drivers of cabs,

- (i) may provide that the by-law, including any provisions for establishing fares or rates or limiting the number of cabs, shall apply to the owners and drivers of cabs engaged in the conveyance of goods or passengers from any point within the municipality to any point outside the municipality, except where such conveyance is made to an airport owned and operated by the Crown in right of Canada situate outside the municipality by a cab bearing a valid and subsisting plate issued in respect of such airport under The Government Airport Concession Operations Regulations made under the *Department of Transport Act* (Canada),

R.S.C. 1970,  
c. T-15

- (ii) may exempt from all or any of its provisions, upon such conditions as may be set out in the by-law, owners and drivers of cabs engaged in the conveyance of,

(A) children taking the cab both to and from nursery school, school or other full-time education institution, or

(B) physically, emotionally or mentally handicapped persons, as defined in the by-law, from any point within the municipality to any point outside the municipality, where the conveyance is made pursuant to a written contract for the use of a cab with respect to which there is a valid and subsisting licence issued under a by-law passed under this paragraph by another municipality, and

- (iii) may exempt from all or any of its provisions owners and drivers of cabs with respect to which there is a valid and subsisting licence issued under this paragraph by another municipality named in the by-law. R.S.O. 1970, c. 284, s. 377, par. 1; 1978, c. 87, s. 40 (10); 1979, c. 101, s. 7 (1).

2. For licensing, regulating and governing keepers of livery stables and of horses used for hire.

3. For licensing, regulating and governing persons keeping boats for hire, and for regulating and inspecting boats kept by such person, and for revoking any such licence.

4. For requiring any or all persons mentioned in paragraphs 1, 2 and 3 to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law and, where such insurance is not so provided, the council or board may refuse, refuse to renew or revoke any licence issued under paragraph 1, 2 or 3.

5. For licensing, regulating and governing persons selling newspapers and magazines upon any highway and for restricting the operations of such persons to a particular location upon a highway, and for restricting the operations of such persons to the sale of newspapers and magazines only, and for prohibiting the selling or offering for sale upon any highway of books, periodicals, pamphlets or other printed matter, except newspapers and magazines, and for prohibiting the taking or soliciting of subscriptions to magazines upon any highway or in any public place, and for revoking any such licence.

6. For licensing, regulating and governing taxi-cab brokers and for revoking any such licence and for requiring taxi-cab brokers to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law in respect of each taxi-cab operated in association with such broker and, where such insurance is not so provided, the council or board may refuse, refuse to renew or revoke any such licence.

- (a) In this paragraph, "taxi-cab broker" means any person who accepts calls in any manner for taxi-cabs that are used for hire and that are owned by persons other than himself, his immediate family or his employer. R.S.O. 1970, c. 284, s. 377, pars. 2-6.

**228.** By-laws may be passed by the councils of counties, towns, villages and townships and by boards of commissioners of police of cities:

1. For licensing, regulating and governing salvage shops, salvage yards, second-hand goods shops and dealers in second-hand goods, and for revoking any such licence.

(a) In this paragraph,

- (i) "dealers in second-hand goods" includes persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods,
  - (ii) "salvage yard" includes an automobile wrecking yard or premises,
  - (iii) "second-hand goods" includes waste paper, rags, bones, bottles, bicycles, automobile tires, old metal and other scrap material and salvage.
- (b) The by-law may apply to and require every person using a vehicle for any of the purposes mentioned in this paragraph, either on his account or as the agent or servant of another person, to take out a licence.
- (c) The power of licensing does not apply to persons engaged in any of the objects mentioned in this paragraph for patriotic or charitable purposes.
- (d) The fee to be paid for the licence shall not exceed \$20 for one year.
- (e) A by-law of a county passed under this paragraph shall not have force in any municipality in the county after such municipality hereby authorized so to do has passed a by-law for a similar purpose.
- (f) Any licence issued under this paragraph may be issued to authorize the licensee to deal in one class only of second-hand goods or in more than one class as may be specified in the licence, and such licensee is not entitled to deal in any class of second-hand goods not covered by his licence. R.S.O. 1970, c. 284, s. 378.

**229.** By-laws may be passed by the councils of counties, cities, separated towns, towns in unorganized territory and townships having a population of not less than 100,000:

Defining  
areas in  
which certain  
trades may  
not be  
carried on

1. For defining areas within which tanneries, salvage shops, salvage yards or second-hand goods shops, or industries of a noxious or unhealthy character, may not be carried on.



- (a) This paragraph does not apply to a tannery erected before the 7th day of April, 1890. R.S.O. 1970, c. 284, s. 380.

NOTE: for the repeal of section 229 on the 1st day of January, 1983, see subsection 502 (2).

**230.—(1)** By-laws may be passed by the councils of counties, townships, towns and villages and of cities having a population of less than 100,000, and by boards of commissioners of police of cities having a population of not less than 100,000:

R.S.O. 1970, c. 284, s. 381 (1), *part.*

1. For licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards.

Licensing,  
etc.,  
salesmen

- (a) No such licence is required for hawking, peddling or selling goods, wares or merchandise,
- (i) to wholesale or retail dealers in similar goods, wares or merchandise, or
- (ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or his agent or employee having written authority so to do, in the municipality in which the grower, producer or manufacturer resides, or
- (iii) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of his own farm, or
- (iv) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or
- (v) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or

When  
licence not  
required

(vi) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.

Production  
of authority  
of servant

(b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer.

Onus of  
proof that  
no licence  
required

(c) In a prosecution for a breach of the by-law, the onus of proving that he does not for any of the reasons mentioned in clause (a) require to be licensed is upon the person charged.

Certain  
powers not  
affected

(d) Nothing in this paragraph affects the powers to pass by-laws under paragraph 65 of section 210, paragraph 1 of section 231, and paragraphs 16 and 17 of section 232.

Force of  
by-law of  
town, etc., not  
separated

(e) Where the council of a town, village or township not separated from a county has passed a by-law under this paragraph, the by-law of the county is not in force in the town, village or township while the by-law of such town, village or township remains in force.

Fees

(f) The fee to be paid for the licence under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the licence is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided.

Licence to  
be produced  
on demand

(g) The licensee shall at all times while carrying on his business have his licence with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and on conviction is liable to a fine of not less than \$1 and not more than \$5.

Penalty

(h) If a peace officer demands the production of a licence by any persons to whom the by-law applies and the demand is not complied with, it is the duty of the peace officer and he has power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law. R.S.O. 1970, c. 284, s. 381 (1), par. 1; 1974, c. 136, s. 18; 1980, c. 74, s. 16.

2. For providing the treasurer or clerk of the county, or the clerk of any municipality within the county, with licences under by-laws passed under paragraphs 1 and 7 to be issued under such regulations as may be prescribed to persons applying for them. Supplying licences

3. For prohibiting the sale of refreshments or confections, including, without limiting the generality of the foregoing, fruit, candy, peanuts, popcorn, ice cream, ice cream cones, iced milk and other iced confectionery from a basket or wagon, cart or other vehicle upon any highway or part of it or in any public park or other public place, but no by-law passed under this paragraph applies to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof. Prohibiting sale of refreshments on public streets, etc.

4. For licensing, regulating and governing persons not being wholesale dealers residing in Ontario who go from place to place or to a particular place to make sales or deliveries of fruits and garden produce to a retail dealer and for licensing, regulating and governing bakers, butchers and grocers whose place of business is out of Ontario but who go from place to place or to a particular place in Ontario to make sales or deliveries of bread, meat and groceries to any person other than to a retail dealer. Licensing dealers in fruit

(a) The fee to be paid for the licence shall not exceed \$250.

(b) The provisions of clauses (e), (g) and (h) of paragraph 1 apply to a by-law passed under this paragraph.

5. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places for the lodging, reception, refreshment or entertainment of the public, and for revoking the licence. Limiting number of and licensing victualling houses, etc.

(a) The sum to be paid for the licence shall not exceed \$20. R.S.O. 1970, c. 284, s. 381 (1), pars. 2-5.

6. For licensing, regulating and controlling all places where food stuffs intended for human consumption are made for sale, offered for sale, stored or sold. Licensing food shops

(a) The licence fee shall not exceed the sum of \$10 for one year. R.S.O. 1970, c. 284, s. 381 (1), par. 6; 1972, c. 124, s. 13.

## Auctioneers

7. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a licence to an applicant who is not of good character or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is considered not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business and for determining the time the licence shall be in force; and for revoking any such licence.

- (a) No such by-law applies to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.
- (b) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose.

## Bill posters

8. For licensing, regulating and governing bill posters, advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills that are indecent or tend to corrupt morals.

- (a) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose.
- (b) A by-law passed under this paragraph may provide that no such licence shall be required by a person who works only as an employee of a person licensed. R.S.O. 1970, c. 284, s. 381 (1), pars. 7, 8.

## By-law to cover sales on county boundary lines

(2) A by-law passed by a council of a county under paragraphs 1 to 4 of subsection (1), whether the same is mentioned or not, covers and includes the boundary line or highway between such county and an adjoining county, and a sale made on such boundary line or highway to a resident of a county in which such by-law is in force is a breach of such by-law in the same manner and with like consequence and effect as if made wholly within the county. R.S.O. 1970, c. 284, s. 381 (2).

**231.** By-laws may be passed by the councils of towns, villages and townships and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:



1. For regulating the storage, handling and sale of fresh meats and of fresh fish and prescribing the equipment and appliances necessary to conduct such business under sanitary conditions, and for granting annually or oftener licences for the sale of fresh meat in quantities less than by the quarter carcass and of fresh fish and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantities than the quarter carcass and of fresh fish, unless by a licensed person and in a place authorized by the council.

Regulating  
sale of meat

(a) Nothing in this paragraph affects the powers conferred by paragraph 65 of section 210.

(b) The fee to be paid for the licence shall not exceed \$50 in a city and \$25 in a town, township or village.

2. For licensing, regulating and governing keepers of stores and shops where tobacco, cigars or cigarettes are sold by retail, and for revoking any such licence.

Licensing  
and  
regulating  
keepers of  
tobacco  
stores

3. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices in or upon any highway or public place, and for revoking any such licence.

Licensing,  
etc., street  
photog-  
raphers

4. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices and who, not being residents of the municipality, go from place to place or to a particular place, notwithstanding that any product is to be delivered in the municipality afterwards, provided that this paragraph does not apply to photographers who take photographs for use in newspapers, magazines or other periodicals or in television broadcasts or to photographers on specific assignment to local industries. R.S.O. 1970, c. 284, s. 382; 1980, c. 74, s. 17.

Licensing  
non-resident  
transient  
photog-  
raphers

**232.** By-laws may be passed by the councils of towns, townships and villages and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

R.S.O. 1970, c. 284, s. 383, *part.*

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs, that directly or indirectly keep, or have in their possession, or on their premises, any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licences to be

Billiard,  
pool and  
bagatelle  
tables

granted and the number of such tables that shall be licensed, and for revoking any such licence.

- (a) "Proprietary club" means all clubs other than those in which the use of any such table is only incidental to the main objects of the club.

Barber  
shops, etc.

2. For licensing, regulating and governing the owners of barber shops and hairdressing establishments, and for revoking any such licence.

Drain  
contractors,  
etc.

3. For licensing, regulating and governing drain contractors, drain layers and persons who install septic tanks or repair or reconstruct drains, remove tree roots or other obstructions from drains and private drain connections by mechanical or other means, and for revoking any such licence.

Driving  
schools and  
instructors

4. For licensing, regulating and governing persons who carry on the business of teaching persons to operate motor vehicles and driving instructors employed in such business, and for regulating and governing the equipment used in such business, and for revoking any such licence.

- (a) The licence fee shall not exceed \$50. R.S.O. 1970, c. 284, s. 383, pars. 1-4.

Electrical  
workers

5. For examining, licensing, regulating and governing electrical contractors and master electricians or for permitting them by reason of registration with the Electrical Contractors Association of Ontario or other qualification to carry on their trade without examination or licence, or both.

- (a) In this paragraph, "master electrician" means a person who is skilled in the planning, superintending and installing of wires, conduits, apparatus, fixtures or other appliances for the carrying or using of electricity for light, heat or power purposes, who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself, or by journeymen electricians in his employ, performs electrical work; and "journeyman electrician" means a person who has been issued a certificate of qualification in the trade of electrician under the *Apprenticeship and Tradesmen's Qualification Act*.

R.S.O. 1980,  
c. 24

- (b) The by-law does not apply to the employees of a public service commission or corporation. R.S.O. 1970, c. 284, s. 383, par. 5; 1972, c. 1, s. 1.

Exhibitions,  
bowling  
alleys, etc.  
R.S.O. 1980,  
c. 498

6. For regulating and licensing, subject to the provisions of the *Theatres Act*, exhibitions held for hire or gain, theatres,

music halls, bowling alleys, moving picture shows, public halls and all places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law, and for revoking any such licence. R.S.O. 1970, c. 284, s. 383, par. 6.

7. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousels and other like contrivances, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

Exhibitions  
of wax  
works,  
shows, etc.

- (a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 275 metres from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.
- (b) The fee to be paid for the licence shall not exceed \$500. R.S.O. 1970, c. 284, s. 383, par. 7; 1978, c. 87, s. 40 (11).

8. For licensing, regulating and governing dealers in coal, coke, oil or other fuel, and for revoking or suspending the licence of any such dealer.

Licensing,  
etc., fuel  
dealers

- (a) The fee for such licence shall not exceed \$5 per year.
- (b) A by-law passed under this paragraph shall include dealers in coal, coke, oil or other fuel who by themselves or their employees, agents, canvassers or solicitors take orders for or deliver fuel within the municipality.

9. For licensing, regulating and governing persons who deliver coal or other fuel, and for revoking any such licence.

Fuel  
delivery  
men

10. For licensing, regulating and governing persons who carry on the business of installing insulation in buildings, and for revoking any such licence.

Installers of  
insulation

Refreshment  
vehicles

11. For licensing, regulating and governing vehicles from which refreshments are sold for consumption by the public, and for revoking any such licence. R.S.O. 1970, c. 284, s. 383, pars. 8-11.

Plumbers

12. For licensing, regulating and governing plumbing contractors, master plumbers and journeyman plumbers.

(a) In this paragraph, "master plumber" means a person who is skilled in the planning, superintending and installing of plumbing, is familiar with the laws, rules and regulations governing the same, has a regular place of business in Ontario and who himself or by journeyman plumbers under his supervision performs plumbing work; and "journeyman plumber" means a person who has been issued a certificate of qualification in the trade of plumber under the *Apprenticeship and Tradesmen's Qualification Act*.

R.S.O. 1980,  
c. 24

(b) A certificate of qualification referred to in clause (a) shall be accepted as sufficient qualification for a licence as a journeyman plumber without further examination. R.S.O. 1970, c. 284, s. 383, par. 12; 1972, c. 1, s. 1.

Shoe repair  
shops, etc.

13. For licensing, regulating and governing keepers of shoe repair or shoe shine shops, and for revoking any such licence.

Tag days

14. For fixing days when persons and organizations in charitable or patriotic work may solicit contributions of money from persons on the highways of the municipality. R.S.O. 1970, c. 284, s. 383, pars. 13, 14.

Tourist  
and trailer  
camps

15. For licensing, regulating and governing tourist camps, trailer camps and motels.

Interpre-  
tation

(a) In this paragraph,

i. "tourist camp" includes auto camp and any parcel of land or premises equipped with cabins used or maintained for the accommodation of the public, and any parcel of land or premises used or maintained as a camping or parking ground for the public whether or not a fee or charge is paid or made for the rental or use thereof; and

ii. "trailer camp" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept



or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.

(b) Any by-law passed under this paragraph, may, among other things,

- i. require trailer camps to be divided into lots, each to be made available for the occupancy of one trailer,
- ii. provide for the issue of licences for a period of one month or longer to the owner of a trailer camp for each such lot to be made available by such owner for the occupancy of a trailer during the currency of a licence and prohibit the use of any lots for the occupancy of trailers without a licence therefor,
- iii. require a licence fee of not more than \$20 per month payable by the owner of a trailer camp for each such lot and require fees to be paid in advance, except that where a lot is to be made available only for temporary occupancy by persons who continue to maintain elsewhere a usual or normal place of residence or for occupancy by a trailer that is assessed under the *Assessment Act*, no licence fee shall be charged. 1976, c. 69, s. 15.

R.S.O. 1980,  
c. 31

16. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of business assessment for the then current year, and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner.

Licensing  
and  
regulating  
transient  
traders

17. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of business assessment, and who so offer goods, wares or merchandise for sale, to pay a licence fee before commencing to trade.

Requirement  
as to  
obtaining  
licence  
before doing  
business

For the purpose of paragraph 16 and this paragraph,

Interpre-  
tation

- (a) "Transient trader" includes any person commencing business who has not resided continuously in the municipality for at least three months next preceding the time of his commencing such business there.

Stock of  
insolvent

- (b) The by-law does not apply to the sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire, so long as no goods, wares or merchandise are added to such stock.

*Bona fide*  
purchaser

- (c) The by-law does not apply to the sale of a business to a *bona fide* purchaser who continues the business.

## Fees

- (d) Subject to clause (e), the fee to be paid for a licence in the case of a transient trader shall not be less than \$100 in any municipality and shall not exceed in a city or town \$500 and in a township or village \$300.

Resident  
fee

- (e) The fee to be paid for the licence by a farmer, resident in Ontario, who offers for sale only the produce of his own farm shall not exceed \$5.

Credit of  
fees on  
taxes

- (f) The sum paid for a licence shall be credited to the person paying it, or to any *bona fide* purchaser of the business who carries on the business, on account of taxes payable in respect of the business, and in respect of real property taxes on the land used for the purposes of or in connection with the business if the land is owned by the person carrying on the business, during the year in which the licence was issued and five years thereafter.

## Offence

- (g) Every transient trader who carries on business without a licence is guilty of an offence and on conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200.

Licence  
to be  
displayed

- (h) Every transient trader shall cause his licence to be prominently and permanently displayed in his

place of business during the full term in which he is carrying on business as a transient trader and in default thereof is guilty of an offence and on conviction is liable to a fine of not less than \$1 and not more than \$10.

- (i) Every applicant for a transient trader's licence shall as part of his application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise that he proposes to sell or offer for sale under such licence.

Application for licence to contain certain information

18. For licensing, regulating and governing chimney-repair men and persons engaging in the business of altering, repairing or renovating buildings or structures, or constructing radiation fallout shelters, and for refusing a licence to any applicant who is not of good character or who has not in the municipality a place of business where he is assessed for business tax with respect to such business, and for revoking such licence.

By-laws for licensing chimney-repair men, etc.

- (a) No by-law passed under this paragraph applies to a building contractor whose principal business is the construction of buildings or structures.
- (b) The fee to be paid for a licence shall not exceed \$10. R.S.O. 1970, c. 284, s. 383, pars. 16-18.

**233.**—(1) In this section, "special sale" means any sale or intended sale at retail described by the use of any of the following words or expressions, or any enlargement, contraction or combination thereof:

Special sales

bankrupt	moving out	fire
insolvent	selling out	smoke
trustee	lease expiring	water damage
receiver	closing out	creditor
liquidation	discontinuing	forced

or any other similar word or words that represent, hold out or advertise that any goods, wares or merchandise are to be disposed of in a manner that is not in the ordinary course of retail business.

(2) By-laws may be passed by the councils of towns, townships and villages and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000,

Licensing and regulating special sales

- (a) for licensing and regulating special sales of goods and persons conducting such sales, and for prohibiting special sales of goods without a licence;
- (b) prescribing the conditions on which licences may be issued and revoked, and providing for the revocation of such licences;
- (c) fixing a fee for such licences; and
- (d) for appointing inspectors and providing for the inspection of such goods.

Application

(3) A by-law under this section does not apply to a sale by or under the authority of,

R.S.C. 1970,  
cc. B-3,  
W-10

- (a) a receiver or trustee under the *Bankruptcy Act* (Canada) or a liquidator under the *Winding-up Act* (Canada);
- (b) a court or receiver appointed by the court;
- (c) a bailiff, sheriff, executor or administrator; or
- (d) a receiver, liquidator or trustee under any general or special Act.

Special sale  
deemed  
business

(4) A special sale shall be deemed to be a business for the purposes of this Act and any other Act that contains provisions with respect to the licensing, revoking of a licence, regulating, governing, prohibiting or limiting of any business or the person carrying on or engaged in it. R.S.O. 1970, c. 284, s. 384.

**234.** By-laws may be passed by the councils of towns and villages and boards of commissioners of police of cities:

Bands of  
music

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park or public place except by a military band attached to any regular corps of the militia of Canada when on duty, under the command of its regular officer.

Licensing of  
dealers in  
old gold, etc.

2. For licensing, regulating and governing persons who for hire or gain purchase or deal in old gold and other precious metals and in old jewellery or other articles for the purpose of smelting the same and recovering the gold therefrom, and for revoking any such licence.



- (a) The fee to be paid for a licence shall not exceed \$25 per year.

3. For prohibiting keepers of second-hand goods shops or salvage stores or shops directly or indirectly purchasing from, exchanging with, or receiving in pledge, from any minor appearing to be under the age of eighteen years, without written authority from a parent or guardian of such minor, any metals, goods or articles. R.S.O. 1970, c. 284, s. 385.

Salvage  
shops  
buying from  
minors

**235.** By-laws may be passed by boards of commissioners of police of cities and by the councils of towns, villages and townships:

1. For regulating parades or processions on highways and, from time to time and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the highways during public processions or public demonstrations, and for giving directions to constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways, on all occasions when the highways are thronged or liable to obstruction.

Regulating  
traffic and  
parades

- (a) This paragraph does not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction that may affect a street railway company shall be made or given until the company has been afforded an opportunity of being heard. R.S.O. 1970, c. 284, s. 386, par. 3.

**236.**—(1) In this section,

Interpre-  
tation

- (a) “group home” means a residence that is licensed or funded under an Act of the Parliament of Canada or the Province of Ontario for the accommodation of three to ten persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being;
- (b) “registrar” means the person designated as the registrar of group homes by the council of a local municipality.

- (2) The council of every local municipality may pass by-laws,

Registration  
of group  
homes

- (a) providing for the registration and the annual renewal of registration, with the registrar, of group homes or such class or classes thereof as may be set out in the by-law;
- (b) prohibiting any person from owning or operating a group home that is not registered in accordance with a by-law passed under this section;
- (c) fixing fees for the registration and renewal of registration of group homes; and
- (d) authorizing the registrar to register and renew registrations required by a by-law passed under clause (a).

Duty of  
registrar

(3) Where an application is made to the registrar of a municipality in the form prescribed by a by-law of the municipality under subsection (2) for the registration or renewal of registration of a group home, the registrar shall register or renew the registration, as the case may be, of the group home.

Inspection

(4) Where the registrar has reasonable and probable grounds to believe that any person is operating a group home that is not registered in accordance with a by-law passed under this section, the registrar or a person acting on his instructions may, under the authority of a search warrant issued under the *Provincial Offences Act*, enter and inspect the property for the purpose of determining whether or not the property is being used as a group home.

R.S.O. 1980,  
c. 400

Restricted  
area by-law  
required  
R.S.O. 1980,  
c. 379

(5) No council may pass by-laws under this section unless there is in effect in the municipality a by-law passed under section 39 of the *Planning Act* that permits the establishment and use of group homes in the municipality. 1979, c. 101, s. 8.

County  
council to  
make  
provision for  
destitute  
mental  
defectives,  
etc.  
R.S.O. 1980,  
c. 263

**237.** The council of every county shall make provision for the whole or partial support within the county of such mentally ill, mentally defective or epileptic destitute persons as cannot be admitted to an institution within the meaning of the *Mental Hospitals Act*, and shall determine the sums to be paid for such support and the persons to whom the same shall be paid. R.S.O. 1970, c. 284, s. 387.

Remuner-  
ation of  
councillors

**238.**—(1) Notwithstanding the provisions of any general or special Act, the council of a municipality may pass by-laws for paying remuneration to the members of council, and such remuneration may be determined in any manner that council considers advisable.

Idem

(2) The remuneration to be paid may be determined in different manners and be of different amounts for different members of council. 1978, c. 32, s. 21.

**239.**—(1) Notwithstanding the provisions of any general <sup>Expenses</sup> or special Act, the council of a municipality may provide by by-law for paying in whole or in part such expenses of the members of council and of the officers and servants of the municipality as are actually incurred as a result of their acting either within or outside the municipality in their capacity as members of council or officers of the municipal corporation or as officers or servants of the municipality and as are authorized by the by-law.

(2) A by-law passed under subsection (1) may set maximum <sup>Maximum amounts</sup> amounts or rates that may be paid in respect of any expense for which payment is authorized by the by-law. 1978, c. 32, s. 22, *part*.

(3) A by-law passed under subsection (1) may provide for the payment of a specified amount or amounts calculated <sup>Expense allowances</sup> according to a specified rate in lieu of the amount of actual expenses incurred in respect of items of expenditure specified in the by-law where the specified amounts or rates, in the opinion of the council, reasonably reflect the actual expenses that would be incurred. 1978, c. 101, s. 7.

**240.**—(1) Notwithstanding the provisions of any general <sup>Remuneration of council members as local board members</sup> or special Act, the council of a municipality may pass by-laws for paying remuneration to a member of council or other person who has been appointed by the council to serve as a member of a local board, as defined in the *Municipal Affairs Act*, or of any other body, in respect of his services as a member of that board, or other body, and to a member of council who serves pursuant to this or any other general or special Act, as an *ex officio* member of such a local board or other body, and such remuneration may be determined in any manner that council deems advisable. <sup>R.S.O. 1980, c. 303</sup>

(2) For the purposes of subsection (1) and sections 241, 243 and 244 “other body” does not include a county, or a regional, district or metropolitan municipality or the County of Oxford. <sup>Interpretation</sup>

(3) Subsection 238 (2) applies with necessary modifications to a by-law passed under subsection (1) for paying remuneration <sup>Application of s. 238 (2)</sup> to persons mentioned in that subsection.

(4) In subsection (1), “local board” or “other body” does <sup>Interpretation</sup> not include a public utilities commission or a hydro-electric commission. 1978, c. 32, s. 22, *part*.

**241.** Notwithstanding the provisions of any general or <sup>Expense allowances</sup> special Act, the council of a municipality may provide by

by-law for paying such expenses of persons mentioned in subsection 240 (1) as are actually incurred as a result of their acting in their capacity as members of the local board or other body, and as are authorized by the by-law, and subsections 239 (2) and (3) apply with necessary modifications to a by-law passed under this section. 1978, c. 101, s. 8.

Remuneration  
or expenses  
not to be  
paid by  
local board

**242.**—(1) Notwithstanding the provisions of any general of special Act but subject to subsection (2), no remuneration or expense shall be paid by a local board to a person mentioned in subsection 240 (1) or subsection 244 (1) in respect of his membership on the local board.

Payment of  
chairman  
and  
vice-chairman

(2) Notwithstanding subsection (1), where a person mentioned in subsection 240 (1) or subsection 244 (1) is the chairman or vice-chairman of a local board, the board may provide for the payment to such chairman or vice-chairman of such remuneration and expenses as may be established by the council of the municipality, or, where more than one municipality is concerned, as established by the board, and such remuneration or expenses may be in addition to the remuneration or expenses paid to such person under any other section of this Act or under any other general or special Act in respect of his membership on the board. 1978, c. 101, s. 9.

Statement  
by  
treasurer

**243.**—(1) The treasurer of every municipality shall on or before the 28th day of February in each year submit to the council of the municipality an itemized statement of the remuneration and expenses paid to each member of council in respect of his services as a member of council or as an officer of the municipal corporation in the preceding year and to each person mentioned in subsection 240 (1) in respect of his services as a member of the local board or other body in the preceding year. 1978, c. 32, s. 22, *part*; 1978, c. 101, s. 10.

Idem

(2) A statement submitted under subsection (1) shall also indicate the by-law and the statutory provision under the authority of which the remuneration or expenses were paid. 1978, c. 32, s. 22, *part*.

Agreement re  
expenses

**244.**—(1) Where two or more municipalities are to be considered as one municipality for the purpose of appointing one or more persons as a member of a local board or other body, those municipalities may by agreement provide for determining and paying the remuneration and expenses of such persons and for apportioning the costs of the payment among each of them.

Application of  
ss. 240, 241,  
243

(2) Sections 240 and 241 apply with necessary modifications to the powers conferred on the two or more munici-



palties mentioned in subsection (1), and section 243 applies with necessary modifications to the treasurer of each of such two or more municipalities. 1978, c. 32, s. 22, *part*.

**245.**—(1) Notwithstanding sections 240 and 244, where two or more municipalities appoint members to the same local board, as defined in the *Municipal Affairs Act*, a majority of the municipalities represented by at least one-half of the total number of members on the local board may, by a resolution passed by the council of each municipality on or before the 15th day of February in each year, establish the remuneration to be paid to all members of the local board appointed by municipal councils in respect of their service as a member of that local board.

Remuneration where two or more municipalities appoint members of local board  
R.S.O. 1980, c. 303

(2) A resolution passed under subsection (1) may establish different amounts for or different manners of remunerating different members of the same local board.

Idem

(3) Notwithstanding sections 241 and 244, subsection (1) applies with necessary modifications to the establishment of the expenses payable to members of the local board where the expenses are incurred as a result of the persons acting in their capacity as members of the local board, and subsections 239 (2) and (3) apply with necessary modifications to a resolution passed under this subsection.

Expenses

(4) For the purposes of this section, “local board” does not include a public utilities commission or a hydro-electric commission.

Interpretation

(5) This section applies with necessary modifications to a member of council who serves pursuant to this or any other general or special Act as an *ex officio* member of such local board.

*Ex officio* members

(6) Where no resolution is passed on or before the 15th day of February as provided in subsection (1), a person described in subsection (1) shall be paid such remuneration as was established for the person or his predecessor for the preceding year and he shall be paid his expenses in accordance with the method of reimbursement established for the person or his predecessor for the preceding year, whether the remuneration and expenses were established by the local board or the municipality appointing the person.

Where no resolution

(7) For the purposes of subsection (6), amounts paid under subsection 242 (2) shall not be included as remuneration or expenses established for the preceding year.

Amounts not to be included as remuneration or expenses of preceding year

(8) Notwithstanding any other provisions of this Act, but subject to subsection 242 (2), the remuneration and expenses of a

Payment by local board

person described in subsection (1) shall be established in accordance with this section and shall be paid by the local board out of the funds of the local board and not by the council of the municipality that appointed the person to the board.

Interpre-  
tation

(9) In this section, "municipality" includes a regional, metropolitan and district municipality and the County of Oxford. 1979, c. 101, s. 9 (1), *part*.

Conservation  
authorities

**246.**—(1) Notwithstanding sections 240 to 245, a conservation authority is responsible for establishing and paying the remuneration and expenses of the members of the conservation authority appointed by its participating municipalities, unless the conservation authority on or before the 15th day of November in the year preceding the year for which such resolution applies passes a resolution transferring the responsibility for establishing remuneration and expenses to the participating municipalities, in which case the remuneration and expenses shall be established and paid in accordance with section 245.

Effective  
date of  
resolution

(2) A resolution passed by a conservation authority under subsection (1) in any year shall take effect on the 1st day of January in the immediately following year. 1980, c. 74, s. 19.

Accident, etc.,  
insurance re  
members of  
council and  
local boards  
R.S.O. 1980,  
c. 218

**247.**—(1) The council of a municipality may pass by-laws for providing by contract with an insurer licensed under the *Insurance Act*,

- (a) group accident insurance to indemnify any member of council or of a local board of the municipality, or his estate, against loss in case he is accidentally killed or injured; and
- (b) group public liability and property damage insurance to indemnify any member of council or of a local board of the municipality, or his estate, in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

while travelling on the business of the corporation or the local board or in the performance of his duties as a member of council or of the local board either within or outside the municipality.

Idem

(2) Where a local board is composed of members appointed by the councils of two or more municipalities, each council shall have in respect of the members appointed by it all the powers for providing insurance for a member of a local

board that are conferred on a council by subsection (1). 1978, c. 32, s. 23.

**248.**—(1) The council of every municipality may pass by-laws for contracting for insurance to protect the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of such members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty imposed by any general or special Act or for paying any sum required in connection with the settlement of such an action or other proceeding and for assuming the cost of defending any such member in such an action or other proceeding.

Liability insurance, payment of damages, etc.  
R.S.O. 1980, c. 303

(2) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members. 1978, c. 101, s. 11.

Local boards

(3) A by-law passed under this section may provide that it applies to a person who was a member of council or a local board, as the case may be, at the time the cause of action or other proceeding arose but who prior to judgment or other settlement of the action or proceeding has ceased to be a member of the council or local board.

Former members of council

(4) This section does not apply to an act or omission that occurred prior to the 15th day of December, 1978. 1980, c. 36, s. 5.

Application

**249.** The council of every municipality may pass by-laws for providing for any or all of the members of council any benefits that may be provided for the employees of a municipality under paragraphs 48 and 49 of section 208 and for any other benefits of a like nature that the council considers appropriate. 1979, c. 101, s. 10.

Insurance, hospitalization, etc.

**250.**—(1) Notwithstanding any other general or special Act, a local board, as defined in the *Municipal Affairs Act*, of a municipality, may provide for the payment of such salary, expenses or allowances for the members thereof that do not come within the class of persons mentioned in subsection 240 (1), as may be established by the council of the municipality or, where more than one municipality is concerned, by the council designated by the Ministry. 1978, c. 32, s. 24.

Remuneration and expenses for certain local board members

Excluded  
members

(2) No payments shall be made under subsection (1) to,

(a) the members of a school board;

(b) the members of a hydro-electric commission;

(c) the members of a public utilities commission;

(d) the trustees of a police village; or

(e) the members of a board of trustees of a police village. 1978, c. 101, s. 12.

Expense  
allowance

R.S.O. 1980,  
c. 303

**251.** Notwithstanding the other provisions of this Act or any other general or special Act, where an elected member of a council of a municipality or a local board, as defined in the *Municipal Affairs Act*, is, under a by-law or resolution of the council or such local board, paid a salary, indemnity, allowance or other remuneration, one-third of such amount shall be deemed to be for expenses incident to the discharge of his duties as a member of the council or such local board. R.S.O. 1970, c. 284, s. 392; 1972, c. 1, s. 104 (6).

Appointment  
of member  
of council as  
commis-  
sioner, etc.

**252.** A member of the council of a village or township having a population of 3,000 or less may be appointed commissioner, superintendent or overseer of any work, other than a highway, undertaken wholly or in part at the expense of the corporation, and may be paid the like remuneration for his services as if he were not a member of the council. R.S.O. 1970, c. 284, s. 393.

Expenses for  
entertaining  
guests

**253.** Notwithstanding the provisions of any general or special Act, the council of any municipality may expend in any year such sum as it may determine for the reception or entertainment of persons of distinction or the celebration of events or matters of national or international interest or importance. 1978, c. 32, s. 25.

## PART XVIII

### HIGHWAYS AND BRIDGES

Interpre-  
tation

**254.—**(1) In this Part, "county bridge" means a bridge under the exclusive jurisdiction of the council of a county.

Exception

(2) Except as provided by section 269, this Part does not apply to a Provincial road or bridge under the control of the Crown. R.S.O. 1970, c. 284, s. 396.



**255.** Where power is conferred by this Part upon a council to pass by-laws for acquiring or for assuming a highway, it includes the power to pass by-laws for acquiring or for assuming part of a highway. R.S.O. 1970, c. 284, s. 397.

Power to  
acquire part  
of highway

**256.** Where power to pass by-laws in respect of a highway or bridge is conferred by this Act on a council, unless otherwise expressly provided it is exercisable only by the council having jurisdiction over the highway or bridge or, if the highway or bridge is under the joint jurisdiction of two or more councils, only by the joint action of such councils, and a by-law by all of them is necessary for the exercise of such power. R.S.O. 1970, c. 284, s. 398.

What  
councils to  
exercise  
powers re  
highways  
and bridges

**257.** Except in so far as they have been stopped up according to law, all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, are common and public highways. R.S.O. 1970, c. 284, s. 399.

What  
constitutes  
public  
highways

**258.**—(1) Unless otherwise expressly provided, the soil and freehold of every highway is vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under this or any other Act.

Highways  
vested in  
corporation  
having  
jurisdiction  
over them

(2) In the case of a dedicated highway, such vesting is subject to any rights in the soil reserved by the person who laid out or dedicated the highway. R.S.O. 1970, c. 284, s. 400.

Reservation  
of rights  
in soil

**259.** Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality has jurisdiction over all highways and bridges within the municipality. R.S.O. 1970, c. 284, s. 401.

Jurisdiction  
of councils  
over  
highways

**260.** Sections 258 and 259 do not apply to roads or bridges owned by companies or individuals. R.S.O. 1970, c. 284, s. 402.

Exception  
as to road  
owned by  
company, etc.

- 261.**—(1) The council of a county has jurisdiction over,
- (a) every highway, bridge and boundary line assumed by the council;
  - (b) every bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local

Jurisdiction  
of county  
councils over  
roads and  
bridges

municipalities, other than a city or separated town in the county;

- (c) every bridge crossing a river or stream over thirty metres in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county. R.S.O. 1970, c. 284, s. 403 (1); 1978, c. 87, s. 40 (12).

Power to  
limit  
jurisdiction

(2) The council may provide that the jurisdiction conferred upon it by clause (1) (b) shall not extend to bridges over rivers, streams, ponds or lakes, less than twenty-five metres in width or of such width less than twenty-five metres as may be specified in the by-law. R.S.O. 1970, c. 284, s. 403 (2); 1978, c. 87, s. 40 (13).

Jurisdiction  
over bridges  
on county  
boundaries

**262.** The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties have joint jurisdiction over such bridges. R.S.O. 1970, c. 284, s. 404.

Jurisdiction  
over bridges  
on boundaries  
between  
county and  
city, etc.

**263.** The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town have joint jurisdiction over such bridges. R.S.O. 1970, c. 284, s. 405.

Jurisdiction  
over  
boundaries  
between  
local muni-  
cipalities

**264.** The councils of the local municipalities between which they run have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by this Act are under the jurisdiction of another council or other councils. R.S.O. 1970, c. 284, s. 406.

Jurisdiction  
where  
corporation  
owns bridge,  
etc., in  
another  
municipality

**265.** Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate, the council of that corporation has jurisdiction over it. R.S.O. 1970, c. 284, s. 407.

Assumption  
by villages  
of bridges  
under  
control of  
county

**266.**—(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of and on such terms and conditions as may be

agreed on with the council of the county, of any bridge within the limits of the village and under the jurisdiction of the council of the county.

(2) When the by-law takes effect, the bridge ceases to be under the jurisdiction of the council of the county and comes and thereafter remains under the jurisdiction of the council of the village, and is and shall remain toll free. R.S.O. 1970, c. 284, s. 408. Effect of  
by-law

**267.** The council having jurisdiction over a bridge has jurisdiction over the approaches to it for thirty metres next adjoining each end of the bridge. R.S.O. 1970, c. 284, s. 409; 1978, c. 87, s. 40 (14). Approaches  
to bridges

**268.**—(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon that it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed ten years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion. Agreements  
between  
adjoining  
municipalities as to  
maintenance  
of boundary  
road

(2) A copy of any agreement made under subsection (1), together with a copy of the by-laws of each of the municipalities authorizing the execution of the agreement, shall be registered in the land registry office of the land registry division in which the highway is situate. Copy of  
agreement  
and by-laws  
to be  
registered

(3) After the registration of the agreement and by-laws, each corporation has jurisdiction over that portion of the road that it has undertaken to maintain and keep in repair, and is liable for the damages incurred by reason of neglect to maintain and keep the same in repair, and the other corporation is relieved from all liability in respect of its maintenance and repair. R.S.O. 1970, c. 284, s. 410. Effect

**269.** The Lieutenant Governor in Council by proclamation may declare that any public road or bridge under the control of the Minister of Transportation and Communications shall not be under the control of the Minister after a day named in the proclamation, and such road or bridge after that day ceases to be under the control of the Minister, and no tolls shall be collected thereon and the road or bridge is under the jurisdiction of the Proclamation  
bringing  
government  
road or  
bridge under  
jurisdiction  
of municip-  
ality

council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities is under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part that lies within its municipality, or if it lies between two or more municipalities is under the joint jurisdiction of their councils. R.S.O. 1970, 284, s. 411; 1972, c. 1, s. 100 (2).

Assumption  
by county  
councils of  
highways,  
bridges and  
boundary  
lines

**270.**—(1) The council of a county may by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town, or within a village or township.

Assent

(2) The by-law does not take effect until assented to by the council of the town, village or township.

County or  
township  
boundary

(3) The council of a county may also by by-law assume as a county road any county or township boundary line.

Connecting  
road in town

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township that connects with a county road.

Bridges  
on such  
highway

(5) Where a highway is assumed under this section, the bridges thereon shall also be assumed as county bridges.

Repeal of  
by-law

(6) A by-law passed under this section may be at any time repealed by the council of the county.

Effect of  
repeal

(7) After the repeal of the by-law, such highway or bridge ceases to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it. R.S.O. 1970, c. 284, s. 412 (1-7).

Assuming  
highway in  
adjacent  
municipality  
as a public  
avenue or  
walk

**271.**—(1) The council of a local municipality may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width. 1978, c. 32, s. 26.

Assent of  
other  
council

(2) The by-law does not take effect until it is assented to by by-law of the council of the adjacent municipality. R.S.O. 1970, c. 284, s. 413 (2).



**272.**—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county. Abandonment by county of roads

(2) Forthwith after the passing of the by-law, the clerk shall transmit by registered mail to the clerk of every local municipality through or along or on the border of which the road runs a copy of the by-law certified under his hand and the seal of the corporation to be a true copy. Clerk to transmit copies of by-law

(3) The by-law does not take effect until it is approved by the Municipal Board, nor does it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law. Approval of Municipal Board

(4) From and after the taking effect of the by-law, the council of a municipality within which any part of the road so abandoned lies has jurisdiction over that part of it that lies within the municipality and, where any part of a road so abandoned lies between or on the border of two or more local municipalities, the councils of such municipalities have joint jurisdiction over that part of it. Jurisdiction after abandonment

(5) Nothing in this section extends or applies to a bridge that under this Act is to be maintained wholly or partly by the corporation of the county. R.S.O. 1970, c. 284, s. 414. Exception

**273.**—(1) A bridge of a greater length than ninety metres in a town having an equalized assessment of less than \$1,000,000 or in a township may, on the application of the council of the town or township, be declared to be a county bridge where, Bridges over ninety metres in length in townships and certain towns may be declared county bridges

(a) it is used by the inhabitants of other municipalities;

(b) it is situate on an important highway affording means of communication to several municipalities; and

(c) on account of its length and for the reasons mentioned in clauses (a) and (b), it is unjust that the burden of maintaining and repairing it should rest upon the corporation of the town or township. R.S.O. 1970, c. 284, s. 415 (1); 1978, c. 87, s. 40 (15).

(2) An order declaring the bridge to be a county bridge may be made by a judge of the county court of the county Order of judge

in which it is situate, on the application of the council of the town or township.

Notice of  
application

(3) Notice of the application shall be served on the corporation of the county at least thirty days before the day on which it is to be made.

Hearing

(4) Each corporation is entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall, if either party so requests, be given under oath.

Power of  
judge

(5) If the judge is of opinion that for the reasons mentioned in subsection (1) the bridge should be declared to be a county bridge, he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township and, if he determines that it should be borne partly by each, he shall fix the proportions in which the expense is to be borne, and his declaration and determination shall be embodied in the order.

Registration  
of order

(6) If the order declares the bridge to be a county bridge, it shall be registered in the land registry office of the land registry division in which the bridge is situate.

Appeal

(7) An appeal lies from the order of the judge to the Divisional Court and the proceedings upon and incidental to the appeal shall be in accordance with the rules of court.

Registration  
of order of  
Divisional  
Court

(8) If the order is reversed or varied by the order of the Divisional Court or if an order declaring the bridge to be a county bridge is made by the Divisional Court, the order of that court shall be registered as provided by subsection (6).

Effect of  
order after  
registration

(9) Where the order of the judge of the county court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or, where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Divisional Court, from and after the registration of the order of the Divisional Court, the bridge is a county bridge.

Payment to  
county of  
proportion of  
maintenance

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear, that proportion of the expenditure is payable by the last-named corporation to the corporation of the county on demand.

(11) Where the application is dismissed, either by the order of the judge of the county court or by the order of the Divisional Court, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and subsections (1) to (10) apply with necessary modifications to the application.

When new application may be made

(12) In the case of a bridge crossing a river, stream, pond or lake, the approaches to the bridge, whether consisting of embankments or other artificial works to the extent to which they are rendered necessary on account of the waters of the river, stream, pond or lake overflowing the highway on one or on both sides of the river, stream, pond or lake in times of freshets or at any other time, shall be deemed for the purpose of this section to form part of the bridge.

Approaches, when to form part of bridge

(13) This section also applies to a bridge that it is proposed to construct, including a bridge to replace an existing one and a bridge to replace one that has been carried away or destroyed or so damaged that it is necessary to rebuild it, and the application may be made before the work of construction is begun. R.S.O. 1970, c. 284, s. 415 (2-13).

Application of section to construction and renewal of bridge

(14) In the case of an application to which subsection (13) applies, it is the duty of the judge to consider and determine whether a bridge of the length of that which it is proposed to erect is necessary for the purpose for which it is to be erected and, if he is of opinion that a bridge of ninety metres or less will be sufficient for that purpose, it is the duty of the judge so to determine and to refuse to make an order under this section. R.S.O. 1970, c. 284, s. 415 (14); 1978, c. 87, s. 40 (15).

Determination by judge as to length of bridge required

(15) In the case provided for by this section, the council of the town or township and the council of the county may at any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations, or in a case to which subsection (13) applies as to the proportions in which the cost of constructing and maintaining the bridge and keeping it in repair shall be borne by their respective corporations.

Power to agree as to maintenance

(16) The agreement shall provide that the bridge shall thereafter, or after a day to be named, be under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township.

What agreement to provide

(17) The terms of the agreement shall be embodied in an order of the judge of the county court which may be made

Order of judge embodying agreement

upon the application of either corporation, and the order so made supersedes any former order made by him.

Idem

(18) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county, the order made under subsection (17) shall so declare.

Registration  
of order

(19) The order made under subsection (17) shall be registered as provided by subsection (6) and has the same effect as an order upon an application made under subsection (2), but the order is not subject to appeal. R.S.O. 1970, c. 284, s. 415 (15-19).

Highways  
assumed by  
county to  
be gravelled,  
etc.

**274.** The council of a county which assumes, as a county road or bridge, any highway or bridge within a township shall with as little delay as reasonably may be and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized, or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner, and shall maintain and keep the same in repair. R.S.O. 1970, c. 284, s. 416.

County to  
build and  
maintain  
certain  
bridges

**275.** The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses 261 (1) (b) and (c). R.S.O. 1970, c. 284, s. 417.

Maintenance  
of bridges  
on county  
boundary  
lines

**276.**—(1) Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it is the duty of the corporations of the counties and, where it forms or crosses a boundary line between a county and a city or a separated town, it is the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake. R.S.O. 1970, c. 284, s. 418 (1).

By-law  
restricting  
duty

(2) The council of a county may by by-law provide that the duty imposed upon the corporation by subsection (1) shall not extend to bridges over rivers, streams, ponds or lakes less than six metres in width. R.S.O. 1970, c. 284, s. 418 (2); 1978, c. 87, s. 40 (16).

Maintenance  
of boundary  
lines

**277.**—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions

(2) Subsection (1) does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be erected or maintained by another corporation. R.S.O. 1970, c. 284, s. 419.



**278.** Where the council of a county passes a by-law under subsection 261 (2) or subsection 276 (2) it is the duty of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. R.S.O. 1970, c. 284, s. 420.

Local municipalities to erect and maintain certain bridges

**279.** All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district, shall be erected and maintained by the corporations of such municipalities and their councils have joint jurisdiction over them and, if the councils fail to agree as to the proportion of the expense to be borne by each corporation, the same shall be determined by arbitration. R.S.O. 1970, c. 284, s. 421.

Maintenance of boundary lines and bridges in provisional judicial district

**280.** Where digging, trenching or excavating with mechanical equipment upon a highway by a municipality or any person entitled so to do may interfere with a gas pipe line, telephone line, works for the distribution and supply of electrical power, water mains or sewers, the municipality shall, except in an emergency or unless otherwise agreed between the municipality and the owner of such works, at least twenty-four hours before the work is to be commenced, notify the owner of the works that such digging, trenching or excavating is to be done. R.S.O. 1970, c. 284, s. 422.

Notice of excavating to owner of utility works

**281.**—(1) Where a river or stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber.

Keeping rivers free from driftwood, etc.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection (1) shall be performed by the corporations of the counties and, where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and, in case of failure to agree in either case as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. R.S.O. 1970, c. 284, s. 423.

What corporations to perform the work and apportionment of expense

**282.**—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality.

Keeping stream free from logs, brush, etc., in township

Other  
township  
to remove  
obstructions

(2) It is the duty of such last-mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate appoints to inspect the same.

Effect of  
failure to  
perform  
duty

(3) If the corporation receiving the notice neglects to perform such duty and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, is responsible for the damages sustained by any person by reason of such want of repair. R.S.O. 1970, c. 284, s. 424.

Deviations  
of boundary  
lines

**283.** Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened that does not follow the course of such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities, and a river, stream, pond or lake that crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. R.S.O. 1970, c. 284, s. 425.

Liability for  
repair of  
public roads,  
etc.

R.S.O. 1980,  
c. 315

**284.**—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it or upon which the duty of repairing it is imposed by this Act and, in case of default, the corporation, subject to the *Negligence Act*, is liable for all damages sustained by any person by reason of such default.

Limitation  
of actions

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

Insufficiency  
of fences,  
etc.

(3) No action shall be brought against a corporation for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier, or caused by or on account of any construction, obstruction or erection or any situation, arrangement, or disposition of any earth, rock, tree or other material or object adjacent to or in, along or upon any highway or any part thereof not within the travelled portion of such highway.

(4) Except in case of gross negligence, a corporation is not liable for a personal injury caused by snow or ice upon a sidewalk.

Snow or  
ice on  
sidewalks

(5) No action shall be brought for the recovery of the damages mentioned in subsection (1) unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered mail to the head or the clerk of the corporation, in the case of a county or township within ten days, and in the case of an urban municipality within seven days, after the happening of the injury, nor unless, where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

Notice of  
action

(6) In the case of the death of the person injured, failure to give notice is not a bar to the action and, except where the injury was caused by snow or ice upon a sidewalk, failure to give or insufficiency of the notice is not a bar to the action, if the court or judge before whom the action is tried is of the opinion that the corporation in its defence was not prejudiced by the want or insufficiency of the notice and that to bar the action would be an injustice, notwithstanding that reasonable excuse for the want or insufficiency of the notice is not established.

When  
failure to  
give notice  
of claim is  
not a bar  
to action

(7) This section does not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation.

To what  
roads  
applicable

(8) Nothing in this section imposes upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or licence of its council.

When  
corporation  
not  
responsible  
for acts of  
others

(9) A corporation is not liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

When  
corporation  
not liable for  
damages

(10) Where a bridge that it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it, the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the

Relief from  
obligation  
to rebuild

public convenience or that the rebuilding of it would entail a larger expenditure than would be reasonable having regard to the use that would be made of the bridge if it were rebuilt.

Conditions  
of granting  
relief

(11) The relief may be granted on such terms and conditions as the Board considers just, and such notice of the application shall be given as the Board may direct.

Costs of  
pending  
actions

(12) Subsections (10) and (11) do not affect the costs of any pending action. R.S.O. 1970, c. 284, s. 427.

Action for  
damages for  
nuisance on  
highway

**285.** The provisions of subsections 284 (2) to (9) apply to an action brought against a corporation for damages occasioned by the presence of any nuisance on a highway. R.S.O. 1970, c. 284, s. 428.

Registration  
of plan not  
to create  
highway  
repair  
liability  
R.S.O. 1980,  
c. 379

**286.** The approval of a plan of subdivision under the *Planning Act* and the registration thereof shall not be deemed to be an assumption by the corporation of the municipality wherein the land comprised in the plan is situate of any highways shown on the plan so as to render the corporation liable for repair or for damages resulting from non-repair within the meaning of section 284. R.S.O. 1970, c. 284, s. 430.

Issue of  
debentures  
for  
reflooring  
bridge

**287.** The corporation of a city or town in which an iron, steel or concrete bridge is constructed may pass a by-law authorizing the issue of and may issue debentures to pay the cost of reflooring the bridge, for any term not exceeding ten years and at such rate of interest as the council may determine, provided that such by-law is approved by the Municipal Board. 1976, c. 69, s. 16.

Apportion-  
ment of  
damages

**288.**—(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing.

Action to be  
against all  
corporations

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action.

What to be  
taken into  
account

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or other-



wise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. R.S.O. 1970, c. 284, s. 432.

**289.**—(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor is against the corporation. Members of council and employees not liable for non-repair of highways

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection (1). R.S.O. 1970, c. 284, s. 433. Contractors not deemed employees

**290.**—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation has a remedy over against such other person for and may enforce payment of the damages and costs that are recovered against the corporation. Remedy over for damages caused by non-repair against persons causing same

(2) The corporation is entitled to such remedy over in the same action if the other person is a party to the action and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation or opening so placed, made, left or maintained by him. Remedy over in same action

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over, and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation. Adding party defendant

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation has Where person causing damage has not been made a party

the remedy over, by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation only where a notice has been served on him, pursuant to rules of court, or where he has admitted or is estopped from denying the validity of such judgment.

When a  
fresh action  
is necessary

(5) Where such notice has not been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action against the corporation, or where the damages have been paid without action, or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. R.S.O. 1970, c. 284, s. 434.

Determina-  
tion of  
disputes as  
to duty to  
erect and  
maintain  
bridge or  
repair  
highway

**291.** When there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations determine the matter in dispute on an originating motion, or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest. R.S.O. 1970, c. 284, s. 435.

Disputes as to  
apportion-  
ment of  
cost of  
erecting or  
maintaining

**292.** Except in the cases provided for by section 295, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping in repair a highway, the matter in dispute shall be determined by arbitration. R.S.O. 1970, c. 284, s. 436.

Laying out  
highway  
where no  
original  
allowance

**293.**—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it.

Passing  
by-law for

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it that lies within the limits of its municipality.

(3) The clerk shall within four days after the passing of the by-law transmit by registered mail to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Copy of by-law to be sent to other townships

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the question of establishing and laying out the proposed highway to be determined by arbitration.

Arbitration

(5) The arbitrator shall determine whether or not the proposed highway shall be established and laid out and, if he determines that it shall be established and laid out, he shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations.

Power of arbitrator

(6) If it is determined by the arbitrator that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it that will lie within the limits of their respective municipalities, and for otherwise carrying out the award, and shall proceed with all reasonable dispatch to carry into effect the by-law.

Duties of other townships when arbitrator determines that highway should be laid out

(7) If it is determined by the arbitrator that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrator may by his award determine. R.S.O. 1970, c. 284, s. 437.

Effect of determination against laying out highway

**294.**—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is desired shall be done, and serve a copy of it on the clerks of the other municipalities with a notice that it is its desire that such a by-law shall be passed.

Disputes as to bridge or highway to be settled by arbitration

(2) If it is determined by the arbitrator that what is proposed ought to be done, he shall by his award so direct, and in that case each council shall forthwith after

Award

notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things that on its part are necessary for carrying into effect the objects of the by-law. R.S.O. 1970, c. 284, s. 438.

Determina-  
tion by  
county  
council of  
disputes as  
to opening or  
maintaining  
township  
boundary  
lines

**295.**—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the townships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

Enforcement  
by county of  
opening up  
or repair on  
petition of  
ratepayers

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

What  
matters to be  
determined  
by county  
council

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection (1) what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively and, in the case provided for by subsection (2), whether the boundary line shall be opened up and the proportions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appointment  
of commis-  
sioners to  
enforce  
order

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships  
to have  
opportunity  
of doing  
the work

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceeding to carry out the work directed to be done for a reasonable time to enable the



township councils to do it, but, if the work is not proceeded with such dispatch as the commissioners consider necessary, they shall themselves complete the work.

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but, if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

Apportionment of and collection of cost of work of commissioners

(7) This section does not apply to a township boundary line that is also a county boundary line. R.S.O. 1970, c. 284, s. 439.

County boundaries not affected

**296.** Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to,

Determination by Municipal Board of disputes re deviation of county boundary lines

- (a) the necessity for a deviation of the road from the boundary line; or
- (b) the location of the deviation; or
- (c) the use of an existing highway in lieu of a deviation; or
- (d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation is to be borne,

any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make any such order as may be deemed just, and such order is final and not subject to appeal. R.S.O. 1970, c. 284, s. 440.

**297.**—(1) The Ontario Motor League may, at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide

Power of Ontario Motor League to erect guide and distance posts, etc.

posts at road intersections and distance posts on the highways to indicate distances and danger signals at hills that may be considered to be dangerous or unsafe for travellers. R.S.O. 1970, c. 284, s. 441 (1); 1978, c. 87, s. 40 (17).

How same  
to be  
erected

(2) Every such guide post, distance post and danger signal shall be so placed as not to obstruct the highway or to endanger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose that the guide post, distance post or danger signal is designed to serve. R.S.O. 1970, c. 284, s. 441 (2); 1978, c. 87, s. 40 (17).

Offence

(3) Every person who contravenes any of the provisions of subsection (2) is guilty of an offence and on conviction is liable to a fine of \$5. R.S.O. 1970, c. 284, s. 441 (3).

Defacing  
posts  
erected

(4) No person shall cut, throw down, injure or deface any such guide post, distance post or danger signal, and for every contravention of this subsection the person offending is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 284, s. 441 (4); 1978, c. 87, s. 40 (17).

Establishing,  
widening,  
stopping up,  
etc., high-  
ways, laying  
out  
boulevards,  
etc.

**298.**—(1) The council of every municipality may pass by-laws,

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway;
- (c) for stopping up any highway or part of a highway or for stopping up any highway or part of a highway for a specified period or periods of time;
- (d) for leasing or selling the soil and freehold of a stopped-up highway or part of a highway;
- (e) for setting apart and laying out such parts as may be considered expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (f) for permitting subways for cattle under and bridges for cattle over any highway;
- (g) for acquiring land or an interest in land at street intersections for the purpose of rounding corners.

(2) Nothing in subsection (1) authorizes a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public department, board or officer of Ontario. R.S.O. 1970, c. 284, s. 443 (1, 2).

Exceptions  
as to exercise  
of power

(3) A by-law passed under clause (1) (b) for altering or diverting any highway or part of a highway or under clause (1) (c) or (d) in respect of an allowance for road reserved in the original survey,

Approval  
of Minister  
to by-law

(a) along the bank of any river, stream or other water;

(b) along or on the shore of any lake or other water;

(c) leading to the bank of any river or stream; or

(d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Minister, and, where the by-law also requires approval of a judge or confirmation by a county council under subsection (6), it shall not be submitted to the Minister until such approval or confirmation has been obtained, provided that the approval of the Minister is not required for a by-law for leasing a stopped-up highway or part of a highway to an owner of land that abuts on it for a period not in excess of thirty years. 1973, c. 83, s. 9.

(4) The powers conferred by subsection (1) shall not be exercised without the consent of the Governor General in Council in respect of,

Approval  
of Governor  
General to  
by-law

(a) any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance or the Provincial Secretary of State in whom the Ordinance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her Late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;

(b) any land owned by the Crown in right of Canada; or

(c) any bridge, wharf, dock, quay or other work vested in the Crown in right of Canada,

and the consent of the Governor General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been given. 1980, c. 74, s. 20.

Limitation  
of power  
of county

(5) The powers conferred by clause (1) (c) shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county. R.S.O. 1970, c. 284, s. 443 (5).

Approval  
of by-law  
by judge of  
county or  
district  
court

(6) A by-law of the council of a township passed under clause (1) (c),

- (a) in the case of a township in unorganized territory, does not have any force until approved by a judge of the district court of the district in which the township is situated; and
- (b) in the case of a township separated for municipal purposes from the county in which it is situated, does not have any force until approved by a judge of the county court of the county in which the township is situated.

Notice to  
clerk of  
county

(7) Where the council of a township, other than a township mentioned in subsection (6), intends to pass a by-law under clause (1) (c), it shall so notify, in writing, the clerk of the county in which the township is situated by registered mail or by personal service.

Objection  
to by-law

(8) If the council of the county objects to the passing of the proposed by-law in respect of which a notice is given under subsection (7), it shall so notify the clerk of the township, in writing, by registered mail or by personal service within sixty days of the receipt of the notice by the clerk of the county, and thereupon the proposed by-law shall not be passed except by agreement between the council of the county and the council of the township and, failing agreement, the Municipal Board, upon application, may determine the matter and its decision is final.

Passage of  
by-law

(9) After giving the notice required under subsection (7), the council of the township may pass a by-law under clause (1) (c) where,

- (a) the council of the county has by by-law consented to the passing of the by-law by the township; or
- (b) the sixty-day period referred to in subsection (8) has elapsed and no notice of objection has been received by the clerk of the township from the council of the county,

and the council of the county shall have no further right of objection. 1978, c. 101, s. 15.



(10) The council may in any by-law closing a highway provide that the same shall only be closed for vehicular traffic and not for pedestrian traffic or *vice versa*, and may provide for the erection of barricades to enforce the due observance thereof.

Closing of street to vehicular traffic only

(11) A by-law passed under clause (1) (b) in respect of altering or diverting any highway or part of a highway or under clause (1) (c) does not take effect in respect of any highway or part of a highway shown on a registered plan of subdivision registered after the 27th day of March, 1946, until it has been approved by the Minister.

Approval of Minister

(12) A by-law passed under subsection (1), or any predecessor of subsection (1), for closing any street, road or highway or for opening upon any private property any street, road or highway does not take effect until it has been registered in the land registry office of the land registry division in which the land is situate, and by the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality. R.S.O. 1970, c. 284, s. 443 (7-9).

Registration of by-laws

[NOTE—See the *Public Transportation and Highway Improvement Act* (R.S.O. 1980, c. 421) as to consent of Lieutenant Governor to closing of highway connecting with the King's Highway.]

**299.**—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence over such highway or part of it unless such person consents to the passing of the by-law or unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided.

Right of ingress and egress not to be taken away by closing road

(2) The by-law does not take effect until the sufficiency of such road or way of access has been agreed upon or until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

By-law, when to take effect

(3) If such person disputes the sufficiency of the road or way of access provided, the sufficiency of it shall be determined by arbitration under this Act and, if the amount of compensation is also not agreed upon, both matters shall be determined by one and the same arbitration.

Arbitration to determine sufficiency of road

(4) If the arbitrator determines that the road or way of access provided is insufficient, he may by his award determine

By-law void if road insufficient

what road or way of access should be provided and, in that case, unless such last-mentioned road or way of access is provided, the by-law is void and the corporation shall pay the costs of the arbitration and award. R.S.O. 1970, c. 284, s. 444.

Possession  
of unopened  
road  
allowance

**300.**—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts that has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall, as against every person except the corporation the council of which has jurisdiction over the allowance for road, be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of  
by-law to  
be given

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession, at least eight days before the meeting of the council at which the by-law is to be taken into consideration. R.S.O. 1970, c. 284, s. 445.

Publication  
of by-law,  
etc.

**301.**—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

(a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or of a township with a population of less than 40,000, shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway; and

(b) the council shall hear any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard. R.S.O. 1970, c. 284, s. 446 (1); 1978, c. 101, s. 16.

Notices

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. R.S.O. 1970, c. 284, s. 446 (2).

When  
publication  
of by-law not  
required

**302.** Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing, laying it out or widening it, or where such land has been

acquired by the corporation, section 301 does not apply to the by-law. R.S.O. 1970, c. 284, s. 447.

**303.**—(1) Notwithstanding the provisions of any Act, no injunction shall be granted or order made by the judge of any court, Where no injunction, etc., to be granted

- (a) for the removing of an alteration or diversion made in a highway; or
- (b) for avoiding or setting aside any conveyance or proceedings by which a municipality has acquired land for diverting or altering a highway,

pursuant to a by-law passed prior to the 22nd day of June, 1976, by the council of a municipality pursuant to this or any other general or special Act, by reason only of the fact that the council failed to comply with the conditions mentioned in clauses 301 (1) (a) and (b).

(2) For the purposes of subsection (1), “municipality” includes a regional, metropolitan and district municipality. Interpretation

(3) Nothing in this section affects or prejudices the rights of any person to a claim for damages against the municipality in respect of such alteration or diversion. Saving

(4) Nothing in this section affects the rights acquired by any person from a judgment or order of any court prior to the 22nd day of June, 1976, or affects the outcome of any action, litigation or other proceeding instituted on or before the 22nd day of June, 1976, and any such action, litigation or other proceeding may be continued and finally adjudicated in the same manner and to the same extent as if this section had not been enacted. 1976, c. 51, s. 12. Idem

**304.**—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet. Sidelines in double front concessions

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario land surveyor named in the by-law. Term of by-law

(3) A judge of the county or district court of the county or district in which the township is situate, on the Appointment of another surveyor by judge

application of any person over whose land the connecting road will pass, who objects to the surveyor appointed by the by-law, may appoint another Ontario land surveyor in the place of the one so appointed.

Application  
for  
appointment

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality.

Compensa-  
tion, deter-  
mination

(5) The surveyor appointed by the by-law or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township.

Determina-  
tion final

(6) The determination of the surveyor as to the compensation is final. R.S.O. 1970, c. 284, s. 448.

Mistakes  
in opening  
road  
allowances

**305.** Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road that was intended to be, but is not wholly or partly upon such allowance, the land occupied by the road as so opened shall be deemed to have been expropriated under a by-law of the corporation, and no person on whose land such road or any part of it was opened is entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he is entitled to compensation under and in accordance with the *Expropriations Act* as for land expropriated under the powers conferred by this Act. R.S.O. 1970, c. 284, s. 449.

R.S.O. 1980,  
c. 148

Sanction of  
council to  
laying out  
of highways

**306.**—(1) No highway shall be laid out in any municipality without the sanction of the council of the municipality. R.S.O. 1970, c. 284, s. 450 (1).

Width of  
highways

(2) No highway less than twenty metres in width shall be laid out by the council of the municipality without the approval of the Minister or by any owner of land without the approval of the council of the municipality and of the Minister. 1979, c. 63, s. 9.

Proviso  
R.S.O. 1980,  
c. 379

(3) Nothing in this section affects the *Planning Act*.

Exception  
as to lane

(4) Subsection (2) does not apply and has never applied to any lane laid out in the rear of lands abutting on



another highway or to any outlet connecting such a lane with a highway. R.S.O. 1970, c. 284, s. 450 (3, 4).

**307.**—(1) The council of any municipality may enter into an agreement with the owner of land adjacent to the intersection of any two highways under the jurisdiction of the council or the intersection of a highway under the jurisdiction of the council and a railway or rapid transit right-of-way for the removal or alteration of any tree, shrub, bush, hedge, fence, signboard or other object on the land that may obstruct the view of drivers of vehicles or pedestrians on the highway when approaching the intersection. Agreement for removal of obstructions to view of drivers

(2) If the council is unable to make an agreement as provided in subsection (1), it may apply to the judge of the county court of the county in which the land is situate for an order compelling the removal or alteration of any object in respect of which the application is made, upon such notice to the owner of the land affected as the judge may direct, and the judge may make an order, subject to the payment of such compensation or upon such other conditions as he may fix, compelling the owner of the land to remove or alter the object, or authorizing the municipal corporation to remove or alter the same and for that purpose to enter upon the land, and the *Judges' Orders Enforcement Act* applies to such an order. Application to judge for order R.S.O. 1980, c. 222  
1970, c. 284, s. 451.

**308.** The council of a municipality in unorganized territory may pass by-laws for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or unorganized township or in adjoining unsurveyed territory. Opening or improving, etc., highways in unorganized territories 1980, c. 74, s. 21.

**309.** By-laws may be passed by the council of every municipality:

R.S.O. 1970, c. 284, s. 453, *part.*

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway that may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic. Boulevards

2. For regulating the construction, maintenance and protection of such boulevards. Regulations R.S.O. 1970, c. 284, s. 453, pars. 1, 2.

Use of  
highways

3. For placing or permitting any person under such conditions as may be agreed upon to place, construct, install, maintain and use objects in, on, under or over sidewalks and highways under its jurisdiction, to permit any person to make, maintain and use areas under and openings in the highways and sidewalks, for prescribing the terms and conditions upon which the same are to be placed, constructed, installed, maintained or used, for making such annual or other charge for the privilege conferred by the by-law as it considers reasonable, and for providing that, upon the termination of such privilege, the highway or sidewalk shall be restored to its former condition at the expense of the person to whom the privilege was granted, by filling in the area or opening or removing said object, or otherwise as may be required in the by-law.

Charge

(a) Payment of such annual or other charge and expense incurred by the municipal corporation in restoring the highway or sidewalk to its former condition may be enforced in like manner as taxes that are due and payable.

Liability of  
corporation  
for damages

(b) Subject to section 290, the municipal corporation is liable for any want of repair of the highway that may result from the construction, installation, maintenance or use of any such area or opening, or such other object. 1974, c. 136, s. 20.

Use of  
air-space  
over  
highways

4. For authorizing agreements between the corporation of the municipality and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the costs thereof and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such consideration and upon such terms and conditions as may be agreed and where the corporation of the municipality is the owner of the lands abutting on both sides of a highway, for authorizing the construction and maintenance by the municipality of walks for the use of pedestrians over, across or under the highway and for the leasing or licensing of untravelled portions of such walks and adjoining lands to persons for such consideration and upon such terms and conditions as may be agreed. 1972, c. 124, s. 16.

Bicycle  
paths

5. For setting apart and laying out so much of any highway as the council may consider expedient for the purposes of a bicycle

path or foot path and for the regulation of the use of such a bicycle path or foot path. 1980, c. 74, s. 22.

6. For preserving or selling the timber or trees on any original allowance for road, subject however to the rights, if any, of a Crown timber licensee under the *Crown Timber Act* and, in the case of an unopened original allowance for road, subject also to the approval of the Minister of Natural Resources. R.S.O. 1970, c. 284, s. 453, par. 5; 1972, c. 4, s. 12.

Timber  
on road  
allowances  
R.S.O. 1980,  
c. 109

7. For making regulations as to pits, precipices and deep waters and other places dangerous to travellers within the municipality or within any defined area or areas thereof.

Regulations  
re pits,  
precipices,  
etc.

8. For acquiring either alone or jointly with the corporation of another municipality such land in either municipality as may be considered necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils, or for any other purpose.

Stone and  
gravel pits

9. For entering upon and searching for and taking from land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing, maintaining and keeping in repair the highways and bridges, or for any other purpose. R.S.O. 1970, c. 284, s. 453, pars. 6-8.

Power to  
enter upon  
land to take  
timber,  
gravel, etc.

### **310. By-laws may be passed by the council of every local municipality:**

1. For leasing or licensing the use of untravelled portions of highways under the jurisdiction of the council, except highways that are extensions or connecting links of the King's Highway, to the owners or occupants of adjoining property for such consideration and upon such terms and conditions as may be agreed.

Leasing and  
licensing  
untravelled  
portions of  
highways

2. For regulating and controlling the use, including the use for parking purposes, of untravelled portions of highways under the jurisdiction of the council that are not extensions or connecting links of the King's Highway, which are leased or in respect of which a licence is granted under paragraph 1. R.S.O. 1970, c. 284, s. 454; 1979, c. 63, s. 10.

Use of  
untravelled  
portions of  
highways  
under lease

Purchasing  
or renting  
machinery

**311.**—(1) Subject to subsection (2), the council of every municipality may pass by-laws for purchasing conditionally, or otherwise, or for renting for a term of years or otherwise, machinery and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money.

Purchase of  
road-making  
machinery

(2) Where a by-law is passed by the council of a municipality under subsection (1) for the purchase of road-making machinery or appliances, the by-law may provide for the borrowing of money for the purpose of paying the purchase price for any period not exceeding ten years and for issuing debentures for the money so borrowed or for issuing to the vendor debentures payable within that period in payment of the purchase money. 1977, c. 48, s. 8.

Taking stock  
in bridge  
company

**312.** The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. R.S.O. 1970, c. 284, s. 456.

Interpre-  
tation

**313.**—(1) In this section, “tree” includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.

Planting  
trees on  
highways

(2) Any person may plant trees on a highway with approval of the council of the municipality expressed by resolution.

Land to  
which  
appurtenant

(3) Every tree upon a highway shall be appurtenant to the land adjacent to the highway and nearest thereto. R.S.O. 1970, c. 284, s. 457 (1-3).

By-laws

(4) The council of every municipality may pass by-laws,

- (a) authorizing and regulating the planting of shade or ornamental trees upon any highway;
- (b) authorizing and regulating the planting, with the consent of the owner, of shade or ornamental trees adjacent to any highway at the expense of the municipality, and any tree planted under the authority of any such by-law is the property of the owner



of the land in which it is planted, and the municipality is not liable for maintenance or otherwise in respect of any tree so planted;

- (c) for preserving trees;
- (d) for prohibiting the injuring or destroying of trees;
- (e) for causing any tree planted upon a highway to be removed when considered necessary in the public interest, but the owner of the trees shall be given ten days notice of the intention of the council to remove such tree and be recompensed for his trouble in planting and protecting it and, if he so desires, is entitled to remove the tree himself, but is not entitled to any further or other compensation;
- (f) prohibiting the planting of any species of tree that the council considers unsuited for that purpose and for the removal without notice of such trees growing on a highway or planted thereon contrary to any such by-law;
- (g) authorizing any officer or committee of the council to supervise the planting of trees upon the highways and the trimming of trees planted upon a highway or upon private property where the branches extend over a highway, or to remove decayed or dangerous trees or trees that have by by-law of the municipality been directed to be removed;
- (h) prohibiting the attaching of any object or thing to a tree located on any highway or public place, except with the consent of an officer of the municipality named in the by-law, notwithstanding that such attachment would not injure or destroy the tree. R.S.O. 1970, c. 284, s. 457 (4); 1975, c. 56, s. 12; 1978, c. 32, s. 27.

(5) Any notice required by subsection (4) may be given by leaving it with a grown-up person residing on the land or, if the land is unoccupied, by posting it in a conspicuous place on the land. <sup>Service of notices</sup>

(6) Except with the authority of the council or a committee or officer thereof appointed as aforesaid, no person shall remove or cut down or injure any tree growing upon a highway. R.S.O. 1970, c. 284, s. 457 (5, 6). <sup>Consent required to removal, etc.</sup>

Expenditure  
for works in  
any county  
of a union

**314.**—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What  
members to  
vote on  
by-law

(2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except, in the case of an equality of votes, when the warden has the casting vote.

What  
property  
assessable  
for rates

(3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures,  
issue of

(4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. R.S.O. 1970, c. 284, s. 458.

**315.** The councils of all municipalities may pass by-laws:

R.S.O. 1970, c. 284, s. 460, *part.*

Obstruction  
of highways

1. For prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges. R.S.O. 1970, c. 284, s. 460, par. 1.

Deposit re  
damages to  
sidewalks,  
etc., upon  
issue of  
building  
permit

2. For regulating the crossing of curbings, sidewalks or paved boulevards by vehicles delivering materials to or removing materials from abutting lands on which any building is being erected, altered, repaired or demolished, and for requiring the owners of such abutting lands, upon any application for the issuing of a permit certifying to the approval of plans of buildings to be erected, altered, repaired or demolished thereon, to pay to the municipality a sum of money not to exceed \$25 per metre of the limit of the lot abutting directly on such sidewalk, curbing or paved boulevard as a deposit to meet the cost of repairing any damage to the sidewalk, curbing or paved boulevard or to any water service box or other service therein caused by the crossing thereof by such vehicles.

(a) Where a by-law passed under this paragraph requires the payment of a deposit to cover the cost

of damage to a sidewalk, curbing or paved boulevard, or to any water service box or other service therein, the by-law shall provide that, upon the completion of the erection, alteration, repair or demolition of the building or buildings on the lands abutting such sidewalk, curbing or paved boulevard and upon application by the person by whom the deposit was paid, the amount by which the sum deposited exceeds the cost of such repairs shall forthwith be refunded.

- (b) Where any moneys paid under this paragraph remain unclaimed for a period of six years, the municipal treasurer may cause to be published a notice containing a list of such unclaimed moneys, including the name of the depositor, and stating that all persons having any claim to any of such moneys are required to prove their claims within ninety days from the publication of the notice, and, upon the expiration of ninety days from the publication of such notice, the treasurer may transfer all of such moneys against which no claim has been made to the general funds of the municipality free of and from any and all claims of any kind whatsoever.
- (c) Without limiting the generality of the foregoing, a by-law passed under this paragraph may require that the owner or occupier of the lands take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the public streets by vehicles going to or coming from the lands during the course of the erection, alteration, repair or demolition and may provide that, in addition to any penalty otherwise provided by law, the owner or occupier shall be responsible to the municipality for the cost of removing such building material, waste or soil, and such cost may be deducted from the deposit. R.S.O. 1970, c. 284, s. 460, par. 2; 1978, c. 87, s. 40 (20).

3. For requiring doorsteps, porches or other erections or things projecting into or over any highway to be removed by the owner or occupant of the land in connection with which they exist.

Removal of  
doorsteps,  
etc.

4. For prohibiting the building or maintaining of fences on any highway or the placing or depositing of firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or

Prohibiting  
building or  
maintaining  
fences on  
highways

bridge, and for requiring the removal of them by the person by whom the same are or were so built, maintained, placed or deposited.

- (a) Unless the by-law otherwise provides, a by-law passed under the authority of this paragraph does not extend or apply to a worm fence that is not for more than half its width upon the highway, or to materials to be used for the construction or repair of a highway or bridge, if they do not interfere with the use of it for public travel.

Prohibiting  
throwing  
dirt, glass,  
etc., on  
highways

5. For prohibiting the throwing, placing or depositing of dirt, filth, glass, handbills, paper or other rubbish or refuse, or the carcass of any animal, on any highway or bridge.

Ditches and  
culverts

6. For prohibiting the obstruction of ditches or culverts upon highways. R.S.O. 1970, c. 284, s. 460, pars. 3-6.

Signs

7. To provide for placing, regulating and maintaining upon the public highways traffic signs for the purposes of guiding and directing traffic. 1980, c. 74, s. 24.

Installation  
of meters for  
controlling  
parking of  
vehicles on  
highways,  
and charging  
of fees for  
parking

8. For erecting, maintaining and operating on any highway or portion of a highway automatic or other mechanical meters or devices, with the necessary standards for the same, for the purpose of controlling and regulating the parking of any vehicle on the highway and measuring and recording the duration of such parking, for requiring drivers of every vehicle parked on such highways to make use of such meters or devices, and to pay for parking such vehicle on the highway a fee according to the amount or scale prescribed by the by-law and as measured by the meter or device, and for prohibiting parking of vehicles on such highway or portion of a highway unless such meter or device is made use of and such fee is paid, and for limiting the right of parking of vehicles on such highway to such drivers as do make use of such meters or devices and pay such fees.

No action  
except for  
negligence

- (a) No municipality or municipal parking authority, except in case of negligence, is liable for personal injury or for damage by reason of the erection, maintenance or operation of such meters or devices with the necessary standards for the same under the authority of a by-law passed under this paragraph, or by reason of a vehicle being parked on the highway under the terms of such by-law.



- (b) The driver of a vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph and the owner of the vehicle is also liable to such a penalty unless at the time the offence was committed the vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. Owner and driver liable for penalties  
 R.S.O. 1970, c. 284, s. 460, par. 8.

9. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by public transit motor vehicles and for prohibiting and regulating the use thereof by vehicles other than public transit motor vehicles to such extent and for such period or periods as may be specified, provided such regulation is not in conflict with the *Highway Traffic Act* and the regulations thereunder, and for the purpose of this paragraph "public transit motor vehicle" means a motor vehicle owned and operated by, for, or on behalf of, the municipality as part of a passenger transportation service. Establishment of bus lanes  
 1973, c. 175, s. 7; 1978, c. 32, s. 28 (1). R.S.O. 1980, c. 198

10. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by bicycles and for prohibiting and regulating the use thereof by vehicles other than bicycles to such extent and for such period or periods as may be specified, provided such regulation is not in conflict with the *Highway Traffic Act* and the regulations thereunder. Establishment of bicycle lanes

11. Before passing a by-law under paragraph 9 or 10 for designating a lane on a road as a lane solely or principally for the use of public transit motor vehicles or bicycles, notice of the proposed by-law shall be published at least once a week for four successive weeks in a newspaper having general circulation in the municipality and the notice shall indicate the date and time of the meeting at which the council will consider the passing of the proposed by-law. Notice of proposed by-law

- (a) This paragraph does not apply so as to affect the validity of a by-law passed prior to the 20th day of June, 1978 under paragraph 9. 1978, c. 32, s. 28 (2).

**316.**—(1) Where a highway for the site of which compensation was paid is established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway is legally stopped up, if the council determines to sell such original allowance or such stopped-up highway, the price at which Selling original road allowance or highway

it is to be sold shall be fixed by the council, and the owner of the land that abuts on it has the right to purchase the soil and freehold of it at that price.

Prior right  
of owners  
of abutting  
lands

(2) Where there are more owners than one, each has the right to purchase that part of it upon which his land abuts to the middle line of the stopped-up highway.

Sale by  
council to  
other persons

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part that he has the right to purchase to any other person at the same or a greater price. R.S.O. 1970, c. 284, s. 461.

Moneys to  
be paid  
into  
special  
account

(4) All moneys received by the municipality from the selling or leasing of a stopped-up highway or part of a highway, the stopping-up of which is subject to the approval of the Minister under subsection 298 (3), less any amount expended by the municipality out of its general funds for the purpose of stopping-up and selling or leasing the highway or part thereof, shall be paid into a special account and the provisions of subsection 36 (11) of the *Planning Act* apply to such account and the moneys therein. 1973, c. 83, s. 10.

R.S.O. 1980,  
c. 379

Where owner  
of land taken  
for highway  
entitled to  
original road  
allowance

**317.**—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title, if he owns the land that abuts on such allowance, is entitled to the soil and freehold of it and, if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

When more  
than one  
owner

(2) Where the land that so abuts is owned by more persons than one, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Where owner  
of land taken  
owns no land  
abutting on  
allowance

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he is entitled to a part of the purchase money that bears the same proportion to the whole purchase money as the value of the part of the site of the new highway that belonged to him bears to the value of the whole site. R.S.O. 1970, c. 284, s. 462.

When person  
in possession  
entitled to  
original  
allowance

**318.**—(1) A person in possession of the whole or any part of an original allowance for road in place of which

he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it is entitled to the soil and freehold of such allowance or part of it and, if it has not already been conveyed to him or to his predecessor in title, to a conveyance of it.

(2) Where there are more persons than one in such possession, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance. Where several persons in possession

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation, this section does not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is, in its opinion, useless to the public. R.S.O. 1970, c. 284, s. 463. Requirement as to assumption of road by corporation

**319.** The Lieutenant Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a provisional judicial district not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway that he has stopped up or that, in consequence of an alteration or diversion of it, no longer forms part of the highway as altered or diverted. R.S.O. 1970, c. 284, s. 464. Stopping up highways in unorganized territory

**320.**—(1) The council of a township in unorganized territory surveyed without road allowances, but in which 5 per cent of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section do not apply. R.S.O. 1970, c. 284, s. 465 (1). Opening up highways where 5 per cent reserved

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided in subsection (1), the corporation shall cause a plan thereof, so far as it affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Ministry of Natural Resources. R.S.O. 1970, c. 284, s. 465 (2); 1972, c. 4, s. 12. Filing plan of roads in Ministry of Natural Resources

## PART XIX

### PENALTIES AND ENFORCEMENT OF BY-LAWS

**321.** By-laws may be passed by the councils of all municipalities and by boards of commissioners of police for Power to impose fines

imposing fines of not more than \$2,000, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act. 1980, c. 74, s. 25.

Statement  
of clerk,  
etc., as to  
licensing or  
non-  
licensing

**322.** For the purpose of any prosecution or proceeding under a by-law for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a board of commissioners of police or of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding. 1978, c. 17, s. 3, *part*.

Application  
of fines

**323.** Except as otherwise provided in any Act, every fine imposed for a contravention of a by-law of a municipality or a local board thereof belongs to the municipality. R.S.O. 1970, c. 284, s. 467.

Convictions  
not  
invalidated  
for want  
of proof  
of by-law

**324.**—(1) A conviction for a contravention of any by-law shall not be quashed for want of proof of the by-law before the convicting justice, but the court or a judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit or in such other manner as may be considered proper.

Requirement  
as to proof

(2) Nothing in this section relieves a prosecutor from the duty of proving the by-law or entitles the justice to dispense with such proof. R.S.O. 1970, c. 284, s. 468.

Enforcing  
performance  
of things  
required to  
be done under  
by-laws

**325.** Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the corporation payable in not more than ten years. R.S.O. 1970, c. 284, s. 469.



**326.** Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. 1979, c. 63, s. 11.

Power to  
restrain by  
order when  
conviction  
entered

**327.** Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of a ratepayer or the corporation or local board. R.S.O. 1970, c. 284, s. 470.

Power to  
restrain  
by action

**328.**—(1) A by-law passed under section 221 or 222 may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Offence

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein. 1978, c. 17, s. 3, *part*.

Corpora-  
tion,  
maximum  
penalty

**329.**—(1) Where a person is convicted of carrying on or engaging in, on, in or in respect of any premises or part thereof, a trade, calling, business or occupation, without a licence required by a by-law passed under section 221 or 222, the court shall order that the premises or part thereof be closed to any use for any period not exceeding two years.

Order  
closing  
premises

(2) Where a person is convicted of a contravention of a by-law passed under section 221 or 222, other than carrying on or engaging in a trade, calling, business or occupation without a licence so to do, and the court decides that the owner or other person occupying the premises or part thereof in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of the conviction or of any pattern of similar conduct, the court may order that the premises or part thereof be closed to any use for any period not exceeding two years.

Idem

Suspension  
of closing  
order

(3) Upon the application by originating notice of motion of any person who has an interest in the premises ordered closed under subsection (1) or (2) and upon,

- (a) being satisfied that the use to which the premises will be put will not be in contravention of any by-law passed under section 221 or 222; and
- (b) the posting by the applicant of a cash bond in the sum of \$10,000 or such greater sum as the court determines, for such term as the court determines, for the purpose of assuring that the premises will not be used in contravention of any such by-law,

the court may make an order suspending any order made under subsection (1) or (2) for such period and upon such conditions as are specified by the court.

Discharge  
of closing  
order

(4) Where, upon application brought by originating notice of motion, the court is satisfied that,

- (a) there has been or will be a *bona fide* change in effective ownership of the premises subsequent to the commission of an offence described in subsection (1) or (2); and
- (b) the new owner satisfies the court that he can ensure that there will be no contravention of any by-law passed under section 221 or 222,

the court may discharge an order made under subsection (1) or (2).

Barring  
of entry

(5) Where an order is made under subsection (1) or (2), the police force responsible for policing in the municipality or regional or metropolitan municipality, shall bar entry to all entrances to the premises or part or parts thereof named in the order until the order has been suspended or discharged pursuant to this section.

Forfeiture  
of bond

(6) Where an order made under subsection (1) or (2) is suspended under subsection (3) and a person is thereafter convicted of an offence for contravention of a by-law passed under section 221 or 222 in respect of the premises or part thereof referred to in the order, a judge of the county or district court may, upon summary application, order the forfeiture of the bond and the payment to the Crown of the proceeds and may order that the suspension of the order be lifted and that the order be reinstated.

(7) No appeal lies from an order made under subsection (6). No appeal

(8) The municipality or metropolitan or regional municipality which passed a by-law described in subsection (1) or (2), the contravention of which was the basis for an order made under the provisions of either such subsection, is a party to any proceedings instituted under subsection (3), (4) or (6) in respect of such order, and shall be served in accordance with the rules of the court with a copy of the notice initiating the proceedings. Service of notice

(9) For the purposes of subsection (8), where the by-law under which the conviction was made was passed by a board of commissioners of police or by a licensing commission for a municipality, or regional or metropolitan municipality, as the case may be, the by-law shall be deemed to have been passed by the council of the municipality or regional or metropolitan municipality, as the case may be. Where by-law deemed passed by council

(10) Where an appeal is taken from an order made under subsection (1) or (2) or from a conviction in respect of which the order was made, the appellant may apply under subsection (3) for an order suspending the order made under subsection (1) or (2) until the disposition of the matter under appeal, or any person may apply under subsection (4) for a discharge of the order, but the fact that such an appeal is commenced does not stay the order. Application for suspension or discharge of closing order

(11) An order made under subsection (1) or (2) shall take effect upon the pronouncement thereof and shall remain in effect during the term of the order, except to the extent that it is suspended pursuant to subsection (3) or until it is discharged pursuant to subsection (4). Term of closing order

(12) The description of any premises or part thereof affected by an order made under subsection (1) or (2) shall be sufficiently made in such order by reference to the municipal address of such premises. Description of premises

(13) An order made under subsection (1) or (2) may be registered in the land registry office in which the title to the place described in the order is recorded. Registration

(14) In subsections (1) and (2), "court" means a provincial offences court or a court to which an appeal may be taken under Part VI of the *Provincial Offences Act*, and in subsections (3) and (4), "court" means the county or district court of the county or district in which the premises are situate. 1978, c. 17, s. 3, *part*. Interpretation

**330.** This Part applies with necessary modifications to by-laws passed by the council of a municipality or by a Application of Part XIX

board of commissioners of police under any other general or special Act except as otherwise provided in such Act. 1978, c. 32, s. 29.

## PART XX

### POLICE VILLAGES

#### TRUSTEES—ELECTION OF, ETC.

Trustees,  
number

**331.**—(1) There shall be three trustees for every police village.

General  
powers

(2) The trustees may contract and may sue and be sued and may pass by-laws by and in the name of the trustees of the police village of (*naming it*), but they are not personally liable upon their contracts. R.S.O. 1970, c. 284, s. 471.

Qualifications,  
trustees and  
electors

**332.**—(1) Every person is qualified to be elected a trustee or to vote at the election thereof,

R.S.O. 1980,  
c. 308

(a) who is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of the municipality in which the village is situate, in whole or in part, by reason of being a resident or owner or tenant of land situate in the village or the spouse of such owner or tenant; and

(b) who is not disqualified by this or any other Act from holding the office of trustee or from voting at the election to such office. 1978, c. 101, s. 17 (1).

First meeting  
of trustees

(2) The first meeting of the trustees after the election shall be held at noon on a day not later than the second Tuesday in December. 1978, c. 32, s. 30.

Vacancies,  
how filled

**333.** If a vacancy occurs in the office of trustee, the remaining trustees or trustee shall appoint, by writing, a trustee to fill the vacancy. R.S.O. 1970, c. 284, s. 473.

Remunera-  
tion

**334.**—(1) Any trustee may be paid such remuneration or expenses as is provided by the trustees who shall have all the powers of a council of a municipality under sections 238 and 239.

Application of  
s. 243

(2) Section 243 applies with necessary modifications to the trustees of a police village. 1978, c. 32, s. 31.



**335.**—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee. Appointment of inspecting trustee

(2) Forthwith after the making of an appointment under subsection (1) or under section 333, the writing by which the appointment is made shall be filed with the clerk who is the returning officer for the election of the trustees under subsection 3 (2) of the *Municipal Elections Act*. R.S.O. 1970, c. 284, s. 475, Requirement as to filing appointment of inspecting trustee, etc. R.S.O. 1980, c. 308  
revised.

**336.**—(1) The trustees may at any time before the 1st day of June in any year by a requisition in writing require the council of the township in which the village is situated to cause to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees consider necessary to defray the expenditure of the trustees for the current year. Requisition on township council to raise sums to meet expenditure

(2) Where the village comprises parts of two or more townships, the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 337. Where village situate in more than one township

(3) The amount that the trustees may require to be so levied shall not in any year exceed a sum that a rate of  $1\frac{1}{2}$  cents in the dollar in the case of a police village in a township or townships in which statute labour has been abolished, and in other cases 1 cent in the dollar, on the rateable property in the village will provide, but this does not apply to a rate imposed or to be levied under section 342, 343 or 345. R.S.O. 1970, c. 284, s. 476. Limit of rates

**337.**—(1) Where a village comprises parts of two or more townships, the proportion of the amount required to be levied in each township shall be determined by the treasurers of the townships. Apportionment of rate among townships by treasurers

(2) A meeting of the treasurers shall be held in every second year following the latest determination and the treasurers shall determine the proportion to be levied in each township. Meeting of treasurers

(3) If the treasurers differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the treasurers in determining the proportions, and the decision of a majority is final and conclusive. Determination when treasurers differ

(4) The determination of the treasurer or of the treasurers and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships. Notice of determination to be given to clerk of township

Who to call  
meeting of  
treasurers

(5) The meeting of the treasurers shall be called by the treasurer of the township in which is situate the larger or largest part of the rateable property of the village.

How long  
determina-  
tion to  
govern

(6) The proportions as determined under this section govern until the next determination is to be made as provided by subsection (2). R.S.O. 1970, c. 284, s. 477.

Reduction  
of township  
rates for  
general  
purposes

**338.**—(1) The ratepayers of the village are entitled to such deduction from the township rate for general purposes payable by them as may be agreed upon between the trustees and the council of the township or, if the village comprises parts of two or more townships, by the councils of the respective townships or, if they are unable to agree, as shall be determined by a judge of the county court of the county in which the village is situated or, if the village is situated in two or more counties, of the county in which the assessment of the lands in the part of the village within the county is larger than the assessment of the lands in the part of the village within any other county.

Application  
to O.M.B.

(2) Either party may at any time apply to the Municipal Board for a modification of the terms of the agreement or order. R.S.O. 1970, c. 284, s. 478.

Performance  
of statute  
labour

**339.**—(1) The trustees are entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

When  
council  
required to  
commute

(2) If the trustees request the council of the township to commute the statute labour payable by the ratepayers in that part of the village that is situate in the township, the council shall provide for such commutation at such rate, not exceeding \$3 per day, as may be requested by the trustees.

Collection  
and  
application  
of com-  
mutation  
money

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. R.S.O. 1970, c. 284, s. 479.

Powers of  
trustees

**340.** The trustees may,

- (a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;
- (b) make contracts for the supply of light, heat, power, water or other public utilities by any person

to the trustees for the purposes of the village or to the residents thereof;

- (c) enter into agreements for the supply of fire protection in the village by any person or corporation,

and do all things necessary for any of such purposes. R.S.O. 1970, c. 284, s. 480.

**341.**—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of,

Payment  
by township  
treasurer  
of orders  
of trustees

- (a) the sum required by section 336 to be levied by the council of the township and any sum that the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;

- (b) any money received for licence fees under any by-law of the trustees and for penalties for breaches of any such by-law.

(2) An order shall not be given under this section except for work actually performed or in payment pursuant to an executed contract. R.S.O. 1970, c. 284, s. 481.

When order  
not to be  
given

**342.**—(1) Upon the application of the trustees, the council of a township in which a police village is situated shall submit for the assent of the electors of the village and, if it receives such assent, shall pass a by-law for borrowing money for,

Submission  
of money  
by-laws  
for certain  
purposes

- (a) the construction of sidewalks of cement, concrete, brick or other permanent material;
- (b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;
- (c) lighting the highways in the village;
- (d) supplying water, light, heat or power to the trustees for the purposes of the village or to the residents thereof;
- (e) acquiring land as a site for and erecting thereon a police village hall,

and for the issue of debentures of the corporation of the township for the money borrowed.

**Special rate** (2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village.

**Expenditure of money borrowed** (3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

**Undertaking of work** (4) When the by-law is passed, the trustees may undertake the work or service.

**Control of fire engines, etc.** (5) The trustees have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of water, light, heat or power, and of the police village hall.

**Statement to be furnished to clerk of township of amount required to be levied for certain purposes** (6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service that has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor and for the maintenance and operation of the plant and appliances for the supply of light, heat or power and of the police village hall. R.S.O. 1970, c. 284, s. 482.

**Purchase of fire engines and appliances with consent of township council** **343.**—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection.

**Township to pass debenture by-law** (2) Upon the purchase being made, the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township.

**Special rate** (3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

**Assent of electors not required** (4) The assent of the electors to the by-law is not necessary.



(5) Subsections 342 (5) and (6) apply to a fire engine and appliances purchased under the authority of this section. R.S.O. 1970, c. 284, s. 483. Application of s. 342 (5, 6)

**344.**—(1) The trustees may enter into agreement with any municipality for the use of the fire-fighting equipment, or any of it, of the village upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding any such agreement no liability accrues to the trustees for failing to supply the use of the fire-fighting equipment, or any of it. Fire-protection agreements

(2) For the purposes of the joint management and operation of fire departments under paragraph 5 of section 208, the trustees have all the powers of the council of a township, except the power to issue debentures. R.S.O. 1970, c. 284, s. 484. Management of joint fire departments

#### ESTABLISHMENT OF PARKS, GARDENS, ETC.

**345.**—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws, the council of a township in which a police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council considers necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes. Acquiring land for parks, exhibitions, etc.

(2) The trustees have the care, control and management of such highway, park, garden or place. Control and management of parks, etc.

(3) The council of the township may provide,

(a) that the money required for the purpose mentioned in subsection (1) shall be levied upon the rateable property in the village; or Powers of township council as to levying cost of parks, etc.

(b) that such money be raised by the issue of debentures of the corporation of the township.

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village. Special rates

(5) The trustees shall annually, before the striking of the rate for the year by the council of the township, furnish to the council a statement showing in detail the amount Statement as to amount required for maintenance of parks, etc

required to be levied for the current year for managing and maintaining the highway, park, garden or place for exhibitions, and the same shall be levied upon the land in the village.

Assent of  
electors not  
required

(6) The assent of the electors to a by-law passed under this section is not necessary. R.S.O. 1970, c. 284, s. 485.

Trustees to  
pass money  
by-laws  
where village  
situate in  
two or more  
townships

**346.**—(1) Where the village comprises parts of two or more townships, a by-law for the purposes mentioned in sections 342, 343 and 345 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws, and for the purposes of such by-laws the trustees have all the powers of the council of a village, except the power to issue the debentures for the payment of the principal and interest.

Fixing  
proportion of  
debt to be  
borne by  
parts of  
village

(2) The by-laws shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 336 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 337.

Certified  
copy for  
each  
township

(3) If the by-law receives the assent of the electors, the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships.

By-law of  
township  
for raising  
money

(4) The council of each township shall forthwith there-after pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law receive the assent of the electors or impose any rate for the payment of the debentures.

Special rates

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. R.S.O. 1970, c. 284, s. 486.

#### SPECIAL POWERS

Special  
powers of  
trustees

**347.**—(1) The trustees have the like power to pass by-laws as is conferred on the council of a village with respect to,

- (a) driving or riding on roads and bridges, by paragraphs 39 and 40 of section 208;
- (b) the granting of land in aid of public libraries, and may grant money to such public libraries;
- (c) vehicles on sidewalks, by paragraph 42 of section 208;
- (d) pounds, by paragraphs 3 to 6 of section 210;
- (e) removal of snow and ice, by paragraphs 53 and 54 of section 210;
- (f) spitting on sidewalks, by paragraph 114 of section 210;
- (g) horses and cattle upon sidewalks, by paragraph 113 of section 210;
- (h) traffic on highways, etc., by paragraph 117 of section 210;
- (i) tobacconists, by paragraph 2 of section 231;
- (j) bagatelle and billiard tables, by paragraph 1 of section 232;
- (k) exhibitions, places of amusement, etc., by paragraph 6 of section 232;
- (l) trees on highways, by section 313, and may grant money to be expended for the planting of shade or ornamental trees upon any such highway;
- (m) fire or fire prevention, by paragraphs 28, 33, 34, 36, 37, 38 and 42 of section 210;
- (n) gunpowder by paragraph 8 of section 210; and
- (o) rubbish, refuse or debris, by paragraph 76 of section 210, and paragraph 5 of section 315. R.S.O. 1970, c. 284, s. 487 (1); 1975, c. 56, s. 13; 1978, c. 32, s. 32 (1).

(2) Where power is conferred to license, the licence fee shall be fixed by the trustees, and subsections 110 (1), (5), (6), (7) and (8) apply. Fixing amount of licence fee

(3) While a by-law passed under subsection (1) is in force, no by-law of the council of the township applicable When by-law of township not to apply to village

to the same subject-matter applies to or is in force in the village. R.S.O. 1970, c. 284, s. 487 (2, 3).

Authenti-  
cation of  
by-laws

**348.**—(1) Every by-law of the trustees shall be signed by at least two of them.

Certified  
copies to  
be sent to  
clerk of  
township

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of every township a part of which is comprised in the village. R.S.O. 1970, c. 284, s. 488.

#### PROSECUTIONS

Application of  
s. 321

**349.** Section 321 applies with necessary modifications to by-laws passed under subsection 347 (1) by the trustees of a police village. 1978, c. 32, s. 34.

#### INCORPORATION OF TRUSTEES

Present  
corporation  
continued

**350.** Where the trustees of a police village have heretofore been created a body corporate, the corporation is hereby continued under its present name until dissolved. R.S.O. 1970, c. 284, s. 494.

Appointment  
of  
chairman  
and  
secretary

**351.**—(1) At its first meeting in each year of its term, the board shall appoint one of its members to be the chairman and shall also appoint a secretary. 1978, c. 32, s. 35.

Presiding  
officer

(2) The chairman shall, if present, preside at all meetings of the board and in his absence the board shall appoint one of its members to act as chairman during such absence. R.S.O. 1970, c. 284, s. 495 (2).

Authenti-  
cation of  
by-laws

**352.**—(1) The by-laws of the board shall be signed by the chairman or acting chairman and shall be sealed with its seal.

Proof of  
by-laws

(2) The provisions of this Act as to the proof of by-laws of a council apply to the by-laws of the board. R.S.O. 1970, c. 284, s. 496.

Repair and  
maintenance  
of improve-  
ments and  
works

**353.** The expenses of repairing and maintaining all works, improvements and services undertaken by the board under the authority of this Act shall be borne by the board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the board, in like manner as the money to be levied as provided by section 336. R.S.O. 1970, c. 284, s. 497.



**354.**—(1) If the board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 284 for damages suffered by or occasioned to any person in consequence of such default, the corporation is entitled to the remedy over against the board provided for by section 290.

Remedy over  
of township  
against  
board for  
damages  
occasioned by  
non-repair

(2) The amount required to satisfy the liability of the board shall be levied and collected by a special rate on the rateable property in the village, and it is the duty of the board to make a requisition in writing to the council of the township to levy and collect the same.

Special rate  
for collection  
of amount of  
damages

(3) Where a village comprises parts of two or more townships, the special rate shall be apportioned between the townships in the manner provided by section 337, and shall be levied and collected by the councils thereof in accordance with the requisition of the board. R.S.O. 1970, c. 284, s. 498.

Apportion-  
ment of  
special rate

**355.**—(1) The board has the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works.

Power to  
construct  
water, light,  
heat, power  
and gas  
works

(2) A copy of every by-law passed under the authority of subsection (1) shall be filed with the clerk of every township in which any part of the village is situate.

Copy of  
by-law to be  
filed with  
township  
clerk

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and, where the village comprises parts of two or more townships, the council of each township shall levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township.

Special  
rates

(4) The proportion to be raised by each township shall be determined under section 337.

Proportion  
of each  
township

(5) Where it is necessary to issue debentures for any of the purposes of this section, the township or townships in which the village is situate may issue debentures for its due proportion to be determined as aforesaid. R.S.O. 1970, c. 284, s. 499.

Issue of  
debentures

**356.**—(1) The powers expressly conferred on the boards of trustees of police villages are in addition to the powers conferred by this Part on trustees of a police village and,

Board to  
have all  
powers of  
trustees of  
a police  
village

except where other provision is made by this Part with respect to such boards, all the provisions of this Part relating to trustees of police villages apply to such boards.

Power to  
impose  
fines, etc.

(2) Sections 321, 324 and 325 apply with necessary modifications to by-laws passed under the authority of this Part by a board of trustees of a police village. R.S.O. 1970, c. 284, s. 500.

## PART XXI

### IMPROVEMENT DISTRICTS

R.S.O. 1980,  
c. 303,  
Part III,  
to apply

**357.**—(1) Every improvement district is subject to Part III of the *Municipal Affairs Act*. R.S.O. 1970, c. 284, s. 501 (1); 1972, c. 1, s. 104 (6).

Saving

(2) Notwithstanding subsection 23 (2) of the *Municipal Affairs Act*, where a local board as defined in that Act exercises any power or jurisdiction in another municipality or in territory without municipal organization as well as in an improvement district, such local board is not by reason only of subsection (1) subject to Part III of the *Municipal Affairs Act*. R.S.O. 1970, c. 284, s. 501 (2); 1972, c. 1, s. 104 (6).

Nature and  
status

**358.**—(1) Every improvement district shall be deemed to be for all purposes of every Act a township municipality, a village municipality or a town municipality as may be designated from time to time by the Municipal Board, except that its powers instead of being exercised by a council shall be exercised by a board of three or five trustees appointed and designated as chairman, vice-chairman and member by the Lieutenant Governor in Council. R.S.O. 1970, c. 284, s. 502 (1).

Remuneration  
of trustees

(2) The trustees appointed under subsection (1) shall be deemed to be members of a council under sections 238 and 239 and section 243 applies with necessary modifications to the secretary-treasurer appointed under subsection (9). 1978, c. 101, s. 18.

Special  
provision  
re trustees

(3) Where, in an improvement district, a secondary school district is established and a separate school is maintained, one of the trustees appointed under subsection (1) shall be a separate school supporter.

Quorum

(4) A majority of the members of the board form a quorum.

Vacancies

(5) If a vacancy occurs on the board through death, resignation or otherwise, the vacancy may be filled and the

members redesignated by the Lieutenant Governor in Council.  
R.S.O. 1970, c. 284, s. 502 (3-5).

(6) Except where otherwise provided by the Municipal Board, the members of the board, with respect to the improvement district, shall be the members of every local board within the meaning of the *Municipal Affairs Act*, except a local board of health, or a board as defined in the *Education Act*.  
R.S.O. 1970, c. 284, s. 502 (6); 1972, c. 1, s. 104 (6).

(7) The chairman of the board, with respect to the improvement district, has the powers and shall perform the duties of a mayor or reeve and the chairman of every local board of which the members are the members of the board of trustees and, when the improvement district forms part of a county for municipal purposes, he is a member of the county council.

(8) The vice-chairman of the board, during the absence of the chairman through illness or otherwise or if the office of chairman is vacant, has all the powers and shall perform the duties of the chairman except that he shall not act in the place of the chairman on a county council.

(9) The board shall appoint a secretary-treasurer who may be a member of the board, who shall hold office during pleasure and, with respect to the improvement district, has the powers and shall perform the duties of,

- (a) the clerk, treasurer and collector of a municipality; and
- (b) the secretary and treasurer of every local board of which the members are the members of the board of trustees. R.S.O. 1970, c. 284, s. 502 (7-9).

(10) Where the secretary-treasurer is the chairman of the board, he is eligible to sit and vote as a member of the county council and paragraph 1 of subsection 38 (1) does not apply. R.S.O. 1970, c. 284, s. 502 (10); 1973, c. 175, s. 8.

**359.** Every improvement district may,

- (a) acquire and hold land within the improvement district for development purposes;
- (b) survey, clear, grade and subdivide such land;
- (c) undertake with respect to such land any undertaking, work, project, scheme, act, matter or thing that may be undertaken by a municipality under any Act;
- (d) sell, lease or otherwise dispose of such land; and

Acquisition  
of land for  
development

Board  
deemed to  
be local  
board

R.S.O. 1980,  
cc. 303, 129

Chairman

Vice-  
chairman

Secretary-  
treasurer

Secretary-  
treasurer  
eligible as  
member of  
county  
council

- (e) borrow money upon debentures for any of the purposes mentioned in clauses (a) to (d). R.S.O. 1970, c. 284, s. 503.

Application of  
R.S.O. 1980,  
c. 347, s. 64 (1)

**360.** Subsection 64 (1) of the *Ontario Municipal Board Act* does not apply to the incurring of a debt by an improvement district that is payable within a period that does not extend beyond the end of the year next following the year in which the debt is incurred. 1972, c. 124, s. 18.

## PART XXII

### MUNICIPAL TAXES

All taxes to  
be levied  
equally  
upon all  
assessments  
R.S.O. 1980,  
c. 31

**361.** All municipal, local or direct taxes or rates shall, where no other express provision is made, be levied upon the whole of the assessment for real property, business or other assessments made under the *Assessment Act*, according to the amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. R.S.O. 1970, c. 284, s. 504.

Limiting  
increase in  
taxes follow-  
ing change in  
assessment  
basis

**362.**—(1) Notwithstanding section 361, where taxes in a municipality on any rateable property in the municipality increase in any year as a result of a different assessment generally of lands in the municipality, the council of the municipality may, in that year, pass a by-law,

- (a) which shall set out the full amount of the increase or decrease in taxation that results solely from such different assessment,
- (i) on each separately assessed parcel of rateable property in the municipality, or
- (ii) on each separately assessed parcel of rateable property of such class or classes of rateable property as may be defined in the by-law,

where the increase or decrease exceeds the greater of the amounts determined under clauses (2) (a) and (b);

- (b) which shall, subject to subsections (2) and (3), with respect to taxes levied in each year for a period not exceeding five years, limit the amount of the increases,
- (i) where the council proceeds under subclause (a) (i), on the separately assessed parcels of rateable property mentioned in the by-law under that subclause, or



- (ii) where the council proceeds under subclause (a) (ii), on the separately assessed parcels of rateable property of any one or more of the classes mentioned in the by-law under that subclause; and
- (c) which shall, subject to subsections (2) and (3), provide that the total amount of the reduction in taxes resulting from the provision in the by-law authorized by clause (b) be raised within the same period as is set out in the by-law under clause (b),
  - (i) where the council proceeds under subclause (a) (i) by reducing the amount of the decreases on the separately assessed parcels of rateable property mentioned in the by-law under that subclause,
  - (ii) where the council proceeds under subclause (a) (ii), by reducing the amount of the decrease on the separately assessed parcels of rateable property of any one or more of the classes of rateable property mentioned in the by-law under that subclause, notwithstanding that no parcel in the class or classes receives a benefit under clause (b),
  - (iii) by charging the reduction in whole or in part to the general funds of the municipality, or
  - (iv) by a combination of the methods set out in subclauses (i), (ii) and (iii).

(2) A provision limiting the amount of an increase or reducing the amount of a decrease under subsection (1) shall, in the first year of the operation of the by-law, limit or reduce only the amount of the increase or decrease, as the case may be, that exceeds the greater of,

Calculation  
of amounts  
limited or  
reduced

- (a) \$50 or such greater amount as may be prescribed by the by-law; and
- (b) 10 per cent, or such greater percentage as may be prescribed by the by-law, of the taxes imposed on the separately assessed parcel of rateable property in the year next preceding the year in which the increase occurred,

and that amount shall be known as an “eligible increase” or “eligible decrease”, as the case may be.

(3) The amount of an eligible increase or eligible decrease that may be limited or reduced in the second and each subsequent year

Idem

of operation of the by-law shall be an amount that is equal to the amount of that increase or decrease that was limited or reduced in the next preceding year less 20 per cent of the eligible increase or decrease, as the case may be, or such greater percentage as the by-law may provide.

Powers  
of  
council

(4) The council may,

(a) under clauses (1) (b) and (c), limit increases and reduce decreases for different classes of rateable property for different periods of time not exceeding five years;

(b) under clauses (2) (a) and (b), prescribe different greater amounts or greater percentages or both with respect to amounts of increases to be limited than are prescribed for the amounts of decreases to be reduced and different greater amounts or greater percentages or both may be prescribed for different classes of rateable property; and

(c) under subsection (3), prescribe different greater percentages for different classes of rateable property.

Where change  
in use or  
character of  
any land

(5) When there has been a change in the use or character of any land which, in the opinion of the council, makes any limitation of the increase in taxation in respect of such land under subsection (1) inappropriate, the council may by by-law exclude increases in taxation in respect of such land from the application of the by-law passed under subsection (1).

Business  
assessment  
R.S.O. 1980,  
c. 31

(6) An increase or decrease in taxes levied on business assessment within the meaning of the *Assessment Act* against any person shall, for the purposes of this section, be deemed to be an increase or decrease, as the case may be, in taxation on a separately assessed parcel of rateable property. 1979, c. 50, s. 1, *part*.

Cancellation,  
reduction or  
refund of  
taxes

**363.**—(1) The council of a local municipality may, in any year, pass by-laws to provide for the cancellation, reduction or refund of taxes levied in the year by the council on the rateable property of any person who makes application in that year to the municipality for such relief and whose taxes are unduly burdensome by reason of an increase in taxes in any year in an amount exceeding 10 per cent, or such greater percentage as may be prescribed in the by-law, of the taxes imposed on the rateable property of such person in the next preceding year resulting from a different assessment generally of lands in the municipality made in the year 1978 or thereafter.

(2) The maximum amount of the taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection (1) shall be limited to the amount by which the increase attributable to the reassessment exceeds \$50 or such greater amount as may be prescribed in the by-law. Limitation

(3) The amount of any taxes cancelled, reduced or refunded pursuant to a by-law passed under subsection (1), shall be charged to the general funds of the municipality. Charge to  
general funds 1979, c. 50, s. 1, *part*.

**364.** Where, in this or any other general or special Act or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of a municipality for municipal or school purposes, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, business or other assessment made under the *Assessment Act*. Rateable  
property,  
what to  
include  
  
R.S.O. 1980,  
c. 31 R.S.O. 1970, c. 284, s. 506.

**365.**—(1) In this section,

Interpreta-  
tion

(a) “commercial assessment” means,

- (i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and
- (ii) business assessment, and
- (iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines,

according to the last revised assessment roll;

(b) “equalization factor” means the factor as determined by the Minister of Revenue;

(c) “equalized commercial assessment” means the total of commercial assessment as equalized by the appli-

cation of the equalization factor or factors applicable to the assessment or assessments;

- (d) "equalized commercial assessment of the prior year" means the total commercial assessment upon which taxes were levied for all purposes other than school purposes for the year prior to the year of apportionment equalized by the application of the equalization factor or factors applicable to the assessment or assessments;
- (e) "equalized commercial mill rate for all purposes other than school purposes of the year prior to the year of apportionment" means the rate obtained when the total taxes levied on commercial assessment for all purposes other than school purposes for the year prior to the year of apportionment is divided by the total equalized commercial assessment for the prior year;
- (f) "equalized residential and farm assessment" means the total of residential and farm assessment as equalized by the application of the equalization factor or factors applicable to the assessment or assessments;
- (g) "equalized residential and farm assessment of the prior year" means the total residential and farm assessment upon which taxes were levied for all purposes other than school purposes for the year prior to the year of apportionment equalized by the application of the equalization factor or factors applicable to the assessment or assessments;
- (h) "equalized residential mill rate for all purposes other than school purposes of the year prior to the year of apportionment" means the rate obtained when the total taxes levied on residential and farm assessment for all purposes other than school purposes for the year prior to the year of apportionment is divided by the total equalized residential and farm assessment of the prior year;
- (i) "equivalent equalized assessment" means the amount determined by dividing that portion of a payment in lieu of taxes not credited to school purposes by the equalized commercial mill rate for all purposes other than school purposes of the year



prior to the year of apportionment and multiplying by 1,000;

(j) "payment in lieu of taxes" means a payment allocated, received or entitled to be allocated or received in the immediately preceding year from,

(i) the Crown in right of Canada,

(ii) the Crown in right of Ontario, including payments under,

A. <i>Assessment Act</i> ,	R.S.O. 1980, c. 31
B. <i>Housing Development Act</i> ,	R.S.O. 1980, c. 209
C. <i>Municipal Tax Assistance Act</i> ,	R.S.O. 1980, c. 311
D. <i>Ontario Water Resources Act</i> ,	R.S.O. 1980, c. 361
E. <i>Power Corporation Act</i> ,	R.S.O. 1980, c. 384
F. <i>Provincial Parks Municipal Tax Assistance Act</i> ,	R.S.O. 1980, c. 402

(iii) section 160,

(iv) a telephone or telegraph company under section 161,

(v) any other government, government agency or person where such payment is in lieu of taxes on real property and business assessment;

(k) "residential and farm assessment" means the assessment for real property except the assessment for real property in subclauses (a) (i) and (iii) according to the last revised assessment roll.

(2) The clerk of every township, town and village shall, on or before the 15th day of March in each year, provide in writing to the clerk of the county in which the municipality is located, a statement of the equalized assessment of the municipality. 1974, c. 136, s. 21, *part*.

Clerk to  
provide state-  
ment of equal-  
ized assess-  
ment

Interpreta-  
tion

(3) For the purposes of subsection (2), the equalized assessment for the year of a municipality shall be the sum of,

(a) the equivalent equalized assessment; and

(b) 85 per cent of the equalized residential and farm assessment; and

(c) the equalized commercial assessment. 1974, c. 136, s. 21, *part*; 1976, c. 51, s. 14 (1).

Where no  
certified  
last  
revised  
assessment  
roll

(4) Where the regional registrar of the Assessment Review Court has not certified in any year in accordance with section 36 of the Assessment Act the last revised assessment roll of any township, town or village for taxation in that year, the equalized assessment for that year of such municipality for purposes of subsection (2) shall be based on the assessment roll as returned to the clerk of such municipality pursuant to section 35 of the *Assessment Act*.

R.S.O. 1980,  
c. 31

Adjustment  
when last  
revised  
assessment  
roll  
certified

(5) Where the equalized assessment of a township, town or village has been computed in accordance with subsection (4) and the calculation of the amount required to be provided for county purposes by such municipality pursuant to subsection (6) is based upon that equalized assessment, the clerk of such municipality shall forthwith upon receiving the last revised assessment roll for the municipality for taxation in that year forward a statement of the actual equalized assessment for the municipality to the clerk of the county in which the municipality is located and the clerk of the county shall forthwith adjust accordingly the amount to be provided for county purposes by such municipality pursuant to subsection (6) and any overpayment or underpayment by a municipality shall be subtracted from or added to, as the case may be, the amount required from that municipality for county purposes in the subsequent year pursuant to this section. 1976, c. 51, s. 14 (2).

County  
councils to  
apportion  
sums required  
for county  
purposes

(6) The council of every county shall, in each year, on or before the 1st day of April, by by-law, determine the percentage share that each municipality within the county shall contribute for county purposes in the year, according to the proportion that the equalized assessment of each municipality bears to the total of the equalized assessments of all the municipalities within the county and such by-law shall also indicate the amount that each municipality is required to provide for county purposes in that year.

(7) The clerk of the county shall by the 15th day of April in each year forward a copy of the by-law passed under subsection (6) to each municipality required to levy a rate for county purposes.

By-law to  
be forwarded  
by county  
clerk

(8) Where, in the opinion of one or more municipalities, its percentage share as set out in the by-law passed under subsection (6) is not just and equitable, one or more of the municipalities may request the council of the county to review the by-law. 1974, c. 136, s. 21, *part*.

Request  
for  
review

(9) Where the council of the county is of the opinion that the percentage share as set out in the by-law passed under subsection (6) is not just and equitable it may, on or before the 24th day of April, amend the by-law to make an apportionment for county purposes that is just and equitable. 1976, c. 51, s. 14 (3).

Amendment  
to  
by-law

(10) Where an amendment is made under subsection (9), the clerk of the county shall, on or before the 30th day of April, forward a copy of the amended by-law to each municipality in the county.

Amended  
by-law to be  
forwarded by  
county clerk

(11) A municipality in a county that is not satisfied with the by-law passed under subsection (6) or (9) may appeal on or before the 10th day of May, by giving notice in writing, by registered mail, to the Municipal Board, the clerk of the county, and every municipality that is required to levy for county purposes.

Appeal to  
O.M.B.

(12) Upon receipt of the notice of appeal under subsection (11), the Municipal Board shall arrange a time and place for hearing the appeal and shall send a notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing and dispose of the appeal before the 30th day of June next after the appeal.

Hearing by  
O.M.B.

(13) The council of a county may, by agreement with a majority of the municipalities representing at least two-thirds of the equalized assessment in the county, provide by by-law that the amount required to be provided by each municipality according to the by-law passed under subsection (6) or (9) shall be paid to the county in the following instalments:

Instalment  
payments

1. 25 per cent of the amount required for county purposes in the prior year, on or before the 31st day of March.

2. 50 per cent of the amount required for county purposes in the current year, less the amount of the instalment paid under paragraph 1, on or before the 30th day of June.
3. 25 per cent of such current amount on or before the 30th day of September.
4. 25 per cent of such current amount on or before the 15th day of December.

Idem

(14) Notwithstanding subsection (13), the council of a county may, by agreement with a majority of the municipalities representing at least two-thirds of the equalized assessment in the county, provide by by-law for any number of instalments and the amounts and due dates thereof other than those provided in subsection (13).

Penalties  
and  
discounts

(15) A by-law passed under subsection (13) or (14) shall provide that in the case of non-payment of any instalment or any portion thereof on the due dates, the municipality so in default shall pay to the county interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default, and where, with the consent of the council of the county, such instalments or any portion thereof are paid in advance of such dates the county shall allow to the municipality a discount thereon from the date of payment to the date upon which payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Adjustments

(16) Where, as a result of a decision of the Municipal Board on an appeal under subsection (11), there is an adjustment required to be provided for county purposes by any municipality, such adjustment shall be made by a municipality to the remaining instalments under subsection (13) or (14).

Refunds

(17) Where an adjustment under subsection (16) results in an overpayment having been made by a municipality of the total amount required to be provided by such municipality for county purposes in the year, such overpayment shall be refunded to the municipality by the council of the county within sixty days of the decision of the Municipal Board.

Adjustment  
by O.M.B.

(18) Where at any time the boundaries of a municipality are altered, a new municipality is erected or a municipality



or a part thereof is added to or taken out of a county for municipal purposes, the Municipal Board shall adjust the percentage share that each municipality within the county shall contribute for county purposes.

(19) For the purposes of clauses (1) (d), (e), (g) and (h), "taxes" and "total taxes" shall be deemed not to include taxes levied under section 33 of the *Assessment Act*. 1974, c. 136, s. 21, *part*. Application of R.S.O. 1980, c. 31, s. 33

**366.** The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county the total amount that has been so directed to be levied therein for the then current year for county purposes or for the purposes of any such locality, and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. R.S.O. 1970, c. 284, s. 508. County clerk to certify amounts to clerks of municipalities

**367.** Nothing in this Act or in the *Assessment Act* alters or invalidates any special provisions for the collection of a rate for interest on county debentures in any general or special Act or in any county by-law providing for the issue of debentures. R.S.O. 1970, c. 284, s. 509. Act not to affect provisions for rates to raise interest on county debentures

**368.**—(1) Notwithstanding any other provision in this Act or any other special or general Act, the imposition or levy by a county council of any rate for county purposes shall be made and raised upon and from the assessment of real property and business assessments as equalized in the county. County rate

(2) When under this Act or any other special or general Act any rate is directed or required to be levied in a local municipality forming part of a county for county purposes, the rate shall in the local municipality be calculated and levied upon and against the whole rateable property including business assessments within such local municipality according to the last revised assessment roll thereof. R.S.O. 1970, c. 284, s. 510. Local municipality to levy county rates on all rateable property

**369.** The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the municipality or of Who liable for taxes, lien on lands

any agent or officer, or by want of registration. R.S.O. 1970, c. 284, s. 511.

Recovery  
of taxes  
by action

**370.**—(1) The taxes payable by any person may be recovered with interest and costs as a debt due to the municipality, in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the clerk of the municipality, is *prima facie* evidence of the debt. R.S.O. 1970, c. 284, s. 512 (1).

Liability for  
taxes on  
business in  
case of  
death or  
change of  
residence

(2) Notwithstanding any other provision in this Act but subject to section 496, every person assessed in respect of business upon any assessment roll that has been revised by the Assessment Review Court or county judge is liable for any rates that may be levied upon such assessment roll notwithstanding the death or removal from the municipality of the person assessed and notwithstanding that such rates are not levied until the year following that in which the assessment roll was revised. R.S.O. 1970, c. 284, s. 512 (2); 1972, c. 124, s. 19.

Paying rent  
to collector  
or treasurer  
until taxes  
paid

**371.** Where taxes are due upon any land occupied by a tenant, the collector or, after the roll has been returned, the treasurer, may give the tenant notice in writing requiring him to pay such collector or treasurer the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs, and the collector or treasurer has the same authority as the landlord of the premises would have to collect the rent by distress or otherwise to the amount of the unpaid taxes and costs; but nothing in this section prevents or impairs any other remedy for the recovery of the taxes or any portion thereof from the tenant or from any other person liable therefor. R.S.O. 1970, c. 284, s. 513.

When tenant  
may deduct  
taxes from  
rent

**372.** Any tenant may deduct from his rent any taxes paid by him that as between him and his landlord the latter ought to pay. R.S.O. 1970, c. 284, s. 514.

Provincial  
taxes

**373.** All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of Ontario or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading

whereof shall be designated the purpose of the rate. R.S.O. 1970, c. 284, s. 515.

**374.**—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information required by this or any other Act to be entered by the collector therein, and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and otherwise under the *Assessment Act* as ascertained after the final revision of the assessment roll, and he shall calculate and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*" the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*" the amount with which the person is chargeable in respect of sums ordered to be levied by the council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour or any sum that is required by any other Act to be placed on the collector's roll the proceeds of which are required by law or by the by-law imposing it to be kept distinct and accounted for separately, and every such last-mentioned rate shall be calculated separately and the column therefor shall be headed "*Special Rate*", "*Local Improvement Rate*", "*Public School Rate*", "*Separate School Rate*", or "*Special Rate for School Debts*", or as the case may be.

Clerks of municipalities to make out collector's rolls, their form, contents, etc.

R.S.O. 1980, c. 31

(2) Notwithstanding subsection (1) or the *Education Act*, the council of any municipality may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable business, as ascertained after the final revision of the assessment roll, and opposite such assessed value he shall set down in a column for that purpose the total amount for which the person is chargeable for all sums ordered to be levied by the council or school boards for the purposes thereof. R.S.O. 1970, c. 284, s. 516 (1, 2).

Preparation of collector's roll  
R.S.O. 1980, c. 129

(3) Subject to subsection (15), in ascertaining the names and school support of all persons assessed for the purpose of preparation of the collector's roll, the clerk, in addition to the index book provided for by section 122 of the *Education Act*, shall be guided by the list supplied to him under section 14 of the *Assessment Act*, as revised and certified.

List of names and school support

Regulation  
by Minister

(4) The Minister may make regulations prescribing the forms and procedures to be used by the clerk for revision and certification of the list supplied to him under section 14 of the *Assessment Act*. 1972, c. 124, s. 20, *part*.

R.S.O. 1980,  
c. 31

Application  
to enter  
name in  
list or  
correct  
information

(5) A person whose name has not been included in the list or whose name has been included in the list but the information relating to him set out therein is incorrect may apply either personally or by his agent authorized in writing to the clerk of the municipality on or before the last day for filing complaints for revision of the list to have his name included in the list or to have such information corrected. 1972, c. 124, s. 20, *part*; 1974, c. 136, s. 22 (1).

Application  
form

(6) Every person applying under this section for an alteration of his school support as shown on the list shall either personally or by his authorized agent sign an application in the prescribed form in which all of the information required by the form shall be sufficiently filled in, either by the applicant or his authorized agent or by the clerk at the request of the applicant or of his authorized agent and, before correcting the list, the clerk shall satisfy himself that the applicant or his authorized agent, as the case may be, understands the effect of the statements in the application and that he is entitled to have the list corrected pursuant to his request. 1973, c. 83, s. 11 (1).

Interpreter

(7) When the language of an applicant under this section is not understood by the clerk, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision to  
amend list

(8) If it appears to the clerk that an applicant under this section understands the effect of the statements in the application and that the amendment that he requests should be made, he shall certify accordingly by signing the application.

Refusal to  
amend list

(9) If, in the opinion of the clerk, the statements made by an applicant in his application under this section do not show that the applicant is entitled to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1972, c. 124, s. 20, *part*.



(10) In the years in which municipal elections are held, determination of complaints for revision of the list shall be completed at the same date as completion of determination of complaints for revision of the preliminary list of electors under the *Municipal Elections Act* but in the years in which municipal elections are not held, the last day for filing and determining complaints shall be the second Friday of November in the year in which the complaints are made. 1972, c. 124, s. 20, *part*; 1974, c. 136, s. 22 (2).

Revision  
period

R.S.O. 1980,  
c. 308

(11) Where, following a complaint, a change is made in the list, the clerk shall ensure that where applicable the like change is made in the preliminary list of electors and the clerk shall also ensure that the list reflects, where applicable, changes made in the preliminary list of electors. 1972, c. 124, s. 20, *part*.

Lists to  
correspond

(12) Upon determination of all complaints for revision of the list for a municipality filed on or before the last day for filing complaints for revision thereof, the clerk shall compile a statement of changes to the list, which shall include the assessment roll number of each change, and shall send a copy of such statement to the assessment commissioner and to the secretary of each school board in the municipality, and in lieu of the statement of changes the clerk may forward copies of applications in the prescribed form referred to in subsection (6). 1972, c. 124, s. 20, *part*; 1974, c. 136, s. 22 (3).

Statement  
of changes

(13) After compilation of the statement of changes, the clerk shall amend the list in accordance with the statement and shall certify the list as so revised, notwithstanding any appeals that have been or may be made to the Assessment Review Court.

Certification  
of list

(14) The applicant personally or by his agent authorized in writing, may appeal to the Assessment Review Court from the refusal of the clerk to amend the list by sending notice of appeal to the regional registrar of the Assessment Review Court within fourteen days of the date of refusal of the application by the clerk and the Assessment Review Court shall hear and decide all appeals under this subsection not later than the 31st day of December in the year in which the appeal is made. 1972, c. 124, s. 20, *part*.

Appeal

(15) Where the census is taken under section 15 of the *Assessment Act* in any local municipality, for the purposes of

Census  
taken early  
R.S.O. 1980,  
c. 31

this section, the assessment commissioner shall supply to the clerk of such local municipality a list for school support purposes and such list shall be deemed to be the list required by section 14 of the said Act, and shall be subject to revision at the same time as lists prepared under such section 14, and the provisions of subsections (3) to (14) apply with necessary modifications. 1973, c. 83, s. 11 (2).

Collector's  
roll,  
mechanical  
methods

(16) The form of the collector's roll may be varied to facilitate the use of,

- (a) mechanical methods in the preparation of the roll;
- (b) mechanical methods of accounting and bookkeeping and, where the methods in this clause are used, the treasurer may exercise the powers and perform the duties of the collector and the clerk in respect of the roll.

Information  
to be given  
in tables  
appended  
to rolls

(17) Appended to every roll made up under subsection (2) there shall also be a table setting forth,

- (a) the total amount of taxes to be collected under and by virtue of such roll or rolls; and
- (b) the name and amount of each rate levied by the municipality that is required by law or by the by-law imposing it to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate,

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of the table.

Certain  
names to  
be omitted  
from  
collector's  
roll

(18) Notwithstanding any other provision in this Act or any other Act, the council of any local municipality may by by-law provide that the clerk shall not enter on any collector's roll the name of any tenant or lessee unless such tenant or lessee is required by the terms of his lease to pay the taxes or where the owner is not liable to pay the taxes. R.S.O. 1970, c. 284, s. 516 (3-5).

Minimum  
tax

**375.**—(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is

chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than,

- (a) \$10 or such other amount as may be prescribed from time to time by the Minister; or
- (b) such other amount as may be determined by council, which amount shall not exceed \$10, or, where another amount has been prescribed by the Minister, such other amount,

the sum of such taxes shall be deemed to be \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, as the case may be, and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$10 or such other amount as prescribed by the Minister or such other amount as determined by council, shall form part of the general funds of the municipality.

(2) The Minister may, by order, prescribe amounts for the purpose of subsection (1). 1979, c. 63, s. 12. Minister's order

(3) Where, immediately prior to the passing of a by-law by any municipality under subsection (1), lots therein owned by the same person were assessed together under paragraph 3 of subsection 13 (2) of the *Assessment Act*, such lots shall continue to be so assessed as long as they all remain the property of that person, provided that nothing in this subsection shall be deemed to apply to the amount at which such lots may be assessed. Existing combined assessments to be continued R.S.O. 1980, c. 31

(4) Where, at any time after the passing of a by-law by any municipality under subsection (1), lots therein that adjoin one another are shown on the same registered plan and are owned by the same person, he may by notice in writing to the assessment commissioner require that such lots shall thereafter be assessed as one parcel and at one total amount of assessment during such time as he continues to be the owner. R.S.O. 1970, c. 284, s. 517 (2, 3). Requirement for combined assessment

**376.** The clerk shall attach to the roll a certificate signed by him according to the following form: Collector's roll to be certified by clerk

I do certify that the within (or annexed, or attached, or as the case may be) Roll is the Collector's Roll prepared according to the provisions of the *Municipal Act* for the .....

.....of.....  
(name of municipality)  
for the year 19....

A.B.

Clerk of the.....

and shall deliver the roll so certified to the collector on or before the 1st day of September, or such earlier date as may be prescribed by by-law of the municipality. R.S.O. 1970, c. 284, s. 518.

Correction  
of roll to  
carry out  
changes in  
assessment

R.S.O. 1980,  
c. 31

**377.** If alterations are made in the assessment roll, in accordance with the provisions of the *Assessment Act*, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with such alterations, and insert the proper rates therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if they had been in the rolls when first prepared and certified by the clerk of the municipality. R.S.O. 1970, c. 284, s. 519.

Duties of  
collectors

**378.** The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. R.S.O. 1970, c. 284, s. 520.

Notice of  
taxes by  
collector

**379.—**(1) In cities, towns, villages and townships, the collector shall give to the person taxed a written or printed notice specifying the amount of the taxes payable by him by delivering the notice or causing it to be delivered to him or for him at his residence or place of business or upon the premises in respect of which the taxes are payable, and may call on the person taxed at his usual residence or place of business if within the municipality in and for which the collector has been appointed and demand payment of the taxes.

How may  
be given

(2) In cities, towns, villages and townships, the council may by by-law authorize the collector, clerk or treasurer to mail the notice or cause it to be mailed to the address of the residence or place of business of such person.



(3) The written or printed notice above mentioned shall have written or printed thereon or attached thereto a schedule specifying the different rates and the total thereof used in calculating the taxes referred to in the notice and also containing the information required to be entered in the collector's roll under section 374. R.S.O. 1970, c. 284, s. 521.

Particulars  
in tax  
notice

**380.**—(1) Notwithstanding section 379, in cities, towns, villages and townships, the council may by by-law authorize the preparation and giving of two separate notices, one notice specifying the amount of taxes payable for all purposes except school purposes and one notice specifying the amount of taxes payable for school purposes, and where a by-law has been passed under this subsection, the collector shall give the notices prepared in accordance with this section and shall not give a notice prepared in accordance with section 379.

By-law  
may  
authorize  
two separate  
tax notices

(2) Where a council has passed a by-law under subsection (1), each notice prepared pursuant to such by-law shall have written or printed thereon or attached thereto a schedule specifying the rate or rates, as the case may be, and the total thereof used in calculating the taxes referred to in the notice and also containing any information required to be entered in the collector's roll under section 374 that pertains to the taxes referred to in the notice.

Contents of  
notices

(3) A notice prepared pursuant to a by-law under subsection (1) that specifies the amount of taxes payable for school purposes shall clearly indicate the tax imposed for public, secondary and separate school purposes.

Idem

(4) The provisions of subsections 379 (1) and (2), relating to the manner of delivering or mailing of the notice, and section 381 apply with necessary modifications to a notice prepared pursuant to a by-law passed under this section, and such notice shall be deemed for all purposes to be a notice given under section 379. 1976, c. 69, s. 17.

Application  
of s. 379 (1, 2)  
and s. 381

**381.**—(1) The collector shall at the time of such demand or notice, as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed the date of such demand or of the delivery or mailing of the notice.

Entry of  
date of  
giving  
notice

(2) Every person so entering any such date shall append his initials thereto, and the entry is *prima facie* evidence of such demand or notice. R.S.O. 1970, c. 284, s. 522.

Initials to  
entries

Proceedings  
in case  
of non-  
residents

**382.** If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by mail, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll opposite the name of such person, and the entry is *prima facie* evidence of the transmission and of the time thereof, and the statement and demand shall contain, written or printed on some part thereof, the name and post office address of the collector. R.S.O. 1970, c. 284, s. 523.

Certificates  
re dates of  
delivering  
notices

**383.**—(1) Instead of entering on the roll the date of the demand or of the delivery or mailing of the notice as required by sections 381 and 382, the collector may, at the time of such demand or notice, as the case may be, or immediately thereafter, make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the demands or notices in the roll or in the part were made, delivered or mailed.

Evidence

(2) Any such certificate is *prima facie* evidence of the making, delivery or mailing of such demand or notice. R.S.O. 1970, c. 284, s. 524.

Notice of  
address for  
tax bills

**384.** Where a person assessed furnishes the clerk with a notice in writing giving the address to which the notice of taxes may be delivered to him and requesting that the notice be delivered to such address by registered mail, the notice shall be so delivered by the collector who shall add the cost of the registration to the taxes, and such notice shall stand until revoked in writing. R.S.O. 1970, c. 284, s. 525.

Certificate  
re current  
taxes

**385.** After taxes have been levied in any year, the collector shall upon demand give a certificate with respect to any assessment for real property or business assessment indicating that the taxes for the current year have been levied, the amount of the taxes and whether or not all or any part of such taxes have been paid. R.S.O. 1970, c. 284, s. 526.

By-laws  
requiring  
taxes to be  
paid into  
office of  
treasurer or  
collector

**386.**—(1) In cities, towns, villages and townships, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any

day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

Payments  
by  
instalments

(2) A by-law under subsection (1) may contain provisions with respect to the payment of taxes by tenants of lands owned by the Crown or in which the Crown has an interest, in which case the by-law shall provide that, where any such tenant has been employed either within or outside the municipality by the same employer for not less than thirty days, such employer shall pay over to the treasurer or collector on demand out of any wages, salary or other remuneration due to such employee the amount then payable for taxes under the by-law and such payment relieves the employer from any liability to the employee for the amount so paid. R.S.O. 1970, c. 284, s. 527 (1, 2).

Crown  
property

(3) The council may by by-law impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding  $1\frac{1}{4}$  per cent on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied. 1976, c. 69, s. 18, *part*; 1979, c. 63, s. 13 (1).

Penalty  
for non-  
payment of  
taxes

(4) As an alternative to a by-law passed under subsection (3), the council may by by-law impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding 15 per cent per annum, or such lower rate as the council determines, from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier. 1976, c. 69, s. 18, *part*; 1979, c. 63, s. 13 (2).

Idem

(5) The council may by by-law authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

Discount  
or  
interest on  
payments in  
advance

(a) to allow a discount on any taxes so paid in advance at a rate not exceeding 12 per cent per annum and may allow interest at a rate not ex-

ceeding 12 per cent per annum on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or

- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding 12 per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment roll on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made, and a by-law passed under this subsection remains in force from year to year until it is repealed or amended. 1976, c. 51, s. 15 (3).

Notice as  
to time and  
mode of  
payment

(6) If a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 379 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 379, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

By-law to be  
in force until  
return of  
collector's  
roll

(7) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll. R.S.O. 1970, c. 284, s. 527 (6, 7).

Provision  
for payment  
of taxes into  
bank, etc.

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company, or Province of Ontario Savings Office or, subject to the *Credit Unions and Caisses Populaires Act*, into such credit union within the meaning of that Act, as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality. 1979, c. 63, s. 13 (3).

R.S.O. 1980,  
c. 102



(9) The council of any municipality may by by-law authorize the treasurer and the collector of taxes to accept part payment from time to time on account of any taxes due and to give a receipt for such part payment, provided that acceptance of any such part payment does not affect the collection of any percentage charge imposed and collectable under subsection (3) in respect of non-payment of any taxes or any class of taxes or of any instalment thereof. R.S.O. 1970, c. 284, s. 527 (9).

By-law to  
authorize  
part  
payment of  
taxes due

(10) Where the treasurer or the collector of taxes receives part payment on account of taxes due for any year, he shall credit such part payment first on account of the interest and percentage charges, if any, added to such taxes, and, where such taxes are required to be paid by instalments under a by-law passed under subsection (1), the remainder of such payment shall be credited first against the instalment first due and secondly against the instalment next due, and so on, until the whole of the remainder of the payment has been credited against such taxes. 1977, c. 48, s. 9, *part*.

Disposition  
of part  
payment of  
taxes

(11) The council of any municipality may by by-law divide the municipality into separate areas for the purposes of this Part, and in any by-law providing for the payment of taxes by instalments may for every such area name a different day within a fixed period of time for the payment of any instalment. R.S.O. 1970, c. 284, s. 527 (11).

Payment of  
instalments  
in areas

**387.**—(1) Subject to section 386, if taxes that are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to section 379, 382 or 386, the collector or, where there is no collector, the treasurer may by himself or his agent, subject to the exemptions and provisos hereafter mentioned in this section, levy them with costs by distress,

Distress and  
sale for  
taxes that  
are a charge  
on land

- (a) upon the goods and chattels, wherever found within the county in which the municipality lies, belonging to or in the possession of the owner or tenant of the land whose name appears upon the collector's roll (who is hereinafter called "the person taxed");
- (b) upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition;

- (c) upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
- (d) upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the following ways:
  - (i) by virtue of an execution against the person taxed or against the owner, though his name does not appear on the roll,
  - (ii) by purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise,
  - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family,
  - (iv) by virtue of any assignment or transfer made for the purpose of defeating distress,

provided that, where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner are not subject to seizure, and the possession by the tenant of such goods and chattels on the premises is sufficient *prima facie* evidence that they belong to him; provided also that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant; provided also that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land.

Distress for  
taxes not a  
lien on land

(2) Subject to section 386, in case of taxes that are not a lien on land remaining unpaid for fourteen days after demand or notice made or given pursuant to section 379, 382 or 386, the collector or, where there is no collector, the treasurer may by himself or his agent, subject to the exemptions provided for in subsection (4), levy them with costs by distress,

- (a) upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
- (b) upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon any goods and chattels in the possession of the person taxed where title to them is claimed in any of the ways defined by subclauses (1) (d) (i) to (iv), and in applying such subclauses they shall be read with the words "or against the owner though his name does not appear on the roll" and the words "or such owner" and the words "on the land" omitted therefrom;
- (d) upon goods and chattels that at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed.

(3) Notwithstanding subsections (1) and (2), no goods that are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the goods or of selling the goods upon commission or as agent shall be levied upon or sold for such taxes, and provided that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order are liable only for the taxes of the assignor or of the company that is being wound up, and for the taxes upon the premises in which the goods were at the time of the assignment or winding-up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

Case of  
goods in  
possession  
of ware-  
houseman,  
assignee or  
liquidator

(4) The goods and chattels exempt by law from seizure under execution are not liable to seizure by distress.

Goods  
exempt from  
distress

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption.

Exemption  
to be  
claimed

Levy of  
taxes under  
warrant

(6) If at any time after demand has been made or notice given pursuant to section 379, 382 or 386, and before the expiry of the time for payment of the taxes, the collector or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions is about to remove such goods and chattels out of the municipality before such time has expired and makes affidavit to that effect before the mayor or reeve of the municipality or before any justice of the peace, the mayor, reeve or justice shall issue a warrant to the collector or treasurer authorizing him to levy for the taxes and costs in the manner provided by this Act although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly.

City

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part.

Costs

R.S.O. 1980,  
c. 476

(8) The costs chargeable in respect of any such distress and levy are those payable to bailiffs under the *Small Claims Courts Act*.

Prohibition

(9) No person shall make a charge for anything in connection with any such distress or levy unless such thing has been actually done.

Penalty

R.S.O. 1980,  
c. 98

(10) In case any person offends against the provisions of subsection (9) or levies any greater sum for costs than is authorized by subsection (8), the like proceedings may be taken against him by the person aggrieved as may be taken by the party aggrieved in the cases provided for by sections 2, 4 and 5 of the *Costs of Distress Act*.

Notice of  
taxes where  
goods under  
seizure

(11) Where personal property liable to seizure for taxes as hereinbefore provided is under seizure or attachment or has been seized by the sheriff or by a bailiff of any court or is claimed by or in possession of any assignee for the benefit of creditors or liquidator or of any trustee or authorized trustee in bankruptcy or where such property has been converted into cash and is undistributed, it is sufficient for the tax collector to give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy notice of the amount due for taxes, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy shall pay the amount to the collector in preference and priority to any other and all other fees, charges, liens or claims whatsoever.



(12) Where the person making any such distress and levy is a salaried employee of the municipal corporation, the costs in respect of such distress and levy belong to the corporation. R.S.O. 1970, c. 284, s. 528.

Costs of distress, when to belong to corporation

**388.** No defect, error or omission in the form or substance of the notice required by section 379, 382 or 386 invalidates any subsequent proceedings for the recovery of the taxes. R.S.O. 1970, c. 284, s. 529.

Informalities not to invalidate subsequent proceedings

**389.** The collector or his agent, by advertisement posted up in at least three public places in the municipality or where there are wards in the ward wherein the sale of goods and chattels distrained is to be made, shall give at least six days notice of the time and place of the sale, and of the name of the person whose property is to be sold, and, at the time named in the notice, the collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to realize the amount of the taxes and costs. R.S.O. 1970, c. 284, s. 530.

Public notice of sale

**390.** If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. R.S.O. 1970, c. 284, s. 531.

Surplus, if unclaimed, to be paid to party in whose possession the goods were

**391.** If such claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus shall be paid to the claimant. R.S.O. 1970, c. 284, s. 532.

Surplus to admitted claimant

**392.** If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain it until the respective rights of the parties have been determined by action or otherwise. R.S.O. 1970, c. 284, s. 533.

When the right to surplus contested

**393.—**(1) Subject to subsection (2), every collector shall return his roll to the treasurer on or before the 28th day of February in the year next following the year in which the taxes were levied, or on such earlier date in that year as the council may appoint.

Dates for return of collector's roll

In cities

(2) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed.

Collectors' interim returns in cities, towns and villages

(3) The collector of every city, town and village shall, until the final return of the roll, pay over to the treasurer of the city, town or village the amount of his collection once every week or more often if the council by by-law so requires.

Collectors' interim returns in townships

(4) The collector of every township shall, until the final return of the roll, pay over to the treasurer of the township the amount of his collections once every two weeks or more often if the council by by-law so requires.

Audit of collector's roll

(5) Every collector, on the request of the treasurer, shall deliver his roll, together with an account of all collections made, to the treasurer to be audited. R.S.O. 1970, c. 284, s. 534.

Oath of collector on returning roll

**394.**—(1) At or before the return of his roll, every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 379 to 386, and every transmission of statement and demand of taxes required by section 382 entered by him in the roll, has been truly stated therein.

Idem

(2) Every other person who has delivered or mailed a notice pursuant to section 379, 382 or 386 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him has been truly stated in the roll.

Form of oath, etc.

(3) Every such oath may be according to Form 7 and shall be written on or attached to the roll and may be taken before the treasurer or before any justice of the peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for Ontario. R.S.O. 1970, c. 284, s. 535.

Failure of collector to collect

**395.**—(1) If the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as mentioned in section 393, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with powers provided by law for the general levy and collection of taxes.

(2) No such resolution or authority alters or affects the duty of the collector to return his roll or in any manner invalidates or otherwise affects the liability of the collector or his sureties. R.S.O. 1970, c. 284, s. 536.

Duty as to  
return not  
affected

**396.**—(1) The treasurer shall, upon receiving the roll returned under section 393, mail or cause to be delivered a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

Proceedings  
when taxes  
unpaid

(2) When the auditor gives a verification notice to each person mentioned in subsection (1), the treasurer is not obligated to comply with subsection (1). R.S.O. 1970, c. 284, s. 537.

Verification  
notice

#### ARREARS OF TAXES

**397.**—(1) In cases in which the county treasurer is required to collect arrears of taxes of a township or village, the treasurer of the township or village, as the case may be, shall within thirty days after the time appointed for the return and final settlement of the collector's roll in every year furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the collector's roll or by school trustees to be collected.

Statement  
to be  
furnished  
to county  
treasurer

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, and the county treasurer is not bound to receive any such statement after the 7th day of April in each year.

Contents of  
statement

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. R.S.O. 1970, c. 284, s. 538.

Other  
information

**398.** If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the

Municipalities  
united and  
afterwards  
disunited,  
etc.

land after such alteration is situate. R.S.O. 1970, c. 284, s. 539.

All arrears  
to form one  
charge upon  
lands

**399.** The county or other treasurer shall not be required to keep a separate account of the several distinct rates that may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. R.S.O. 1970, c. 284, s. 540.

After return  
of roll, who  
to receive  
taxes

**400.**—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 397, arrears of taxes may be paid to such local treasurer; but, after such statement has been returned to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

Collection  
of arrears  
to belong  
to county  
treasurer  
only

(2) The collection of arrears thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 409. R.S.O. 1970, c. 284, s. 541.

Receiving  
payment on  
account of  
arrears

**401.** The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land for any year and shall credit such payment first on account of the interest and percentage charges, if any, added to such taxes and shall credit the remainder of such payment against that part of the taxes that has been in arrears for the greatest period of time; but no such payment shall be received after a warrant has issued for the sale of the land for taxes. 1977, c. 48, s. 10.

Lists of  
lands three  
years in  
arrears for  
taxes to be  
furnished  
to clerks

**402.**—(1) The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality a list of all the lands in the municipality in respect of which any taxes have been in arrears for the three years next preceding the 1st day of January in any year, and such list shall be so furnished on or before the 1st day of February in every year and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19....*"; and, for the purpose



of the computation of such three years, the taxes for each year shall be deemed to have been in arrears on and from the 1st day of January in such year.

(2) Where in any year the list referred to in subsection (1) has been furnished to the clerk of a municipality, the treasurer who furnished the list shall not later than the 15th day of September in that year, or such earlier date as the clerk may request in writing, furnish a supplemental list to the clerk showing thereon the lands, if any, included in the earlier list that at the date of the supplemental list are no longer liable to be sold for arrears of taxes. R.S.O. 1970, c. 284, s. 543.

Treasurer to  
furnish sup-  
plemental  
list of lands  
no longer  
liable to  
be sold

**403.**—(1) The clerk of the municipality shall keep the list so furnished by the treasurer on file in his office, subject to the inspection of any person requiring to see it, and he shall also deliver a copy of such list in each year to the Assessment Commissioner and it is the duty of the Assessment Commissioner to ascertain if any of the lots or parcels of land contained in such lists are incorrectly described and to ascertain if the names of occupants and owners contained thereon are correct, and all such lists shall be signed by the Assessment Commissioner, verified as provided in subsection (3), and returned to the clerk together with a memorandum of any error discovered therein, and the clerk shall notify in writing the occupants and owners (if known) of the lots or parcels of land contained in such lists, whether resident within the municipality or not, that the land is liable to be sold for arrears of taxes, and the clerk shall transmit such lists and any such memorandum forthwith to the treasurer of the municipality if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, and the treasurer in either case shall attach the seal of the corporation to such lists and file them in his office for public use, and every such list or copy thereof shall be received in any court as evidence, in any case arising concerning the assessment of such lands. 1972, c. 124, s. 21; 1974, c. 136, s. 23 (1).

Clerks to  
keep the  
lists in  
their office  
open to  
inspection,  
give copy to  
Assessment  
Commis-  
sioner

(2) Where in any year the clerk of a municipality is furnished with the supplemental list mentioned in subsection 402 (2), he shall forthwith deliver a copy thereof to the Assessment Commissioner and after its delivery subsections (1) and (3) cease to apply in respect of lands shown on the supplemental list. R.S.O. 1970, c. 284, s. 544 (2).

Assessment  
Commis-  
sioner to be  
furnished  
with copy of  
supplemental  
list of lands  
no longer  
liable to  
be sold

(3) The Assessment Commissioner shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

Assessment  
Com-  
missioner's  
certificate

*I do certify that I have examined or caused to be examined all the lots and parcels of land and the names of the occupants and owners on this list named; and that I have entered on the attached memorandum any error discovered therein and that all the entries as amended are true and correct, to the best of my knowledge and belief.*

1974, c. 136, s. 23 (2).

Proceedings  
where any  
land is found  
not to have  
been  
assessed

R.S.O. 1980,  
c. 31

**404.** If, on an examination of the return required under section 403 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 32 of the *Assessment Act*. R.S.O. 1970, c. 284, s. 545.

Offence for  
neglect to  
preserve list  
of lands  
in arrears  
for taxes

**405.** Every clerk of a municipality who neglects to preserve the list of lands in arrears for taxes, furnished to him by the treasurer in pursuance of section 402, or to furnish copies of such lists, as required, to the Assessment Commissioner, and every Assessment Commissioner who neglects to examine or cause to be examined the lands entered on his list, and to make or cause to be made returns in the manner hereinbefore directed, is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 284, s. 546.

Apportion-  
ment of  
taxes where  
land  
assessed  
in block

**406.**—(1) When it is shown to the Assessment Review Court or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the Assessment Review Court or council, upon the application by the treasurer of the municipality or by or on behalf of any person claiming to be the owner of one or more parcels of the land, may, after notice of the application to all owners, direct the apportionment of the taxes or rates upon such parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 401 is to be applied, and, upon payment of the apportionment assigned to any parcel, the payment shall be a satisfaction of the taxes or rates thereon, or the Assessment Review Court or the council, as the case may be, may make such other direction as the case may require, and the provision herein contained is retroactive in its operation, but does not apply to any lands that have been advertised for sale for taxes or rates.

(2) Forthwith after an apportionment has been made, the clerk shall transmit a copy of the minute or resolution to the treasurer, who, upon receipt thereof, shall enter it in his books, and thereafter each lot or other subdivision of the land affected is liable only for the amount of taxes or rates apportioned thereto, and is only liable for sale for non-payment of the tax or rate so apportioned or charged against it. R.S.O. 1970, c. 284, s. 547.

Minute of  
apportion-  
ment for  
treasurer

**407.** An appeal may be had to the Municipal Board by any owner or owners from any decision or apportionment made under section 406 and a like appeal may be had by the municipality from a decision or apportionment made by the Assessment Review Court under section 406. R.S.O. 1970, c. 284, s. 548.

Appeal

**408.**—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and, subject to clause (a), may charge an amount for the cost of the search and certified statement on each separate parcel, but shall not make any charge to any person who forthwith pays the taxes.

Written  
statement  
of arrears

(a) For the purposes of this subsection, "amount" means an amount not exceeding the administrative cost of the search and certified statement as determined by a by-law passed by council. 1974, c. 136, s. 24.

(2) A statement given under subsection (1) is binding upon the municipal corporation and the amount charged for the search and statement belongs to the corporation and not to the treasurer.

Idem

(3) Such certified statement may be according to Form 8. R.S.O. 1970, c. 284, s. 549 (2, 3).

Form

**409.**—(1) The treasurer of every county shall keep a triplicate blank receipt book and, on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the treasurer of the local municipality in which the land is situate the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the treasurer of the local municipality at least every three months.

County  
treasurers,  
etc., to keep  
triplicate  
blank receipt  
books

Filing of  
receipts

(2) The county treasurer shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the person making payment, the lot on which payment is made, the amount paid, the date of payment and the number of the receipt, and the auditors shall examine and audit such books and accounts at least once in every twelve months.

Treasurer  
to keep  
duplicate  
receipt book

(3) In cities, towns and other municipalities having power to sell lands for non-payment of taxes, the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year. R.S.O. 1970, c. 284, s. 550.

As to  
pretended  
receipt, etc.

**410.** If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, the treasurer is not bound to accept it until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. R.S.O. 1970, c. 284, s. 551.

Lands on  
which taxes  
unpaid to be  
entered in  
certain  
books by  
treasurer

**411.** The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears, from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due, and he shall, on the 15th day of January in every year, complete and balance his books by entering against every parcel of land the arrears, if any, due at the last settlement, and the taxes of the preceding year that remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. R.S.O. 1970, c. 284, s. 552.

Interest on  
tax arrears

**412.—**(1) Notwithstanding any special Act, but subject to subsection (2), the treasurer, collector or county treasurer, as the case may be, shall add to the amount of all taxes due and unpaid interest at the rate of one-half of 1 per cent per month for each month or fraction thereof from the 31st day of December in the year in which the taxes were levied until the taxes are paid, provided that the council by by-law may increase such rate to a rate not exceeding  $1\frac{1}{4}$  per cent per month. 1976, c. 69, s. 19, *part*; 1979, c. 63, s. 14 (1).



(2) Notwithstanding subsection (1) or any special Act, <sup>Idem</sup> the council of a local municipality may, by by-law, require that the treasurer, collector or county treasurer, as the case may be, add to the amount of all taxes due and unpaid interest at such rate not exceeding 15 per cent per annum as the council determines, from the 31st day of December in the year in which the taxes were levied until the taxes are paid. 1976, c. 69, s. 19, *part*; 1979, c. 63, s. 14 (2).

(3) No interest or percentage added to taxes shall be <sup>Interest, etc., not to be compounded</sup> compounded. 1976, c. 69, s. 19, *part*.

(4) Interest and percentages added to taxes form <sup>Interest, etc., to form part of taxes</sup> part of such taxes and shall be collected as taxes. R.S.O. 1970, c. 284, s. 553 (3).

(NOTE.—*For procedure in lieu of tax sales in certain municipalities, see the Municipal Affairs Act, R.S.O. 1980, c. 303.*)

**413.** The treasurer shall not sell any lands for taxes <sup>Sale of lands for taxes, what lands only to be sold</sup> that have not been included in the list furnished by him pursuant to section 402 to the clerks of the municipalities in the month of January preceding the sale. R.S.O. 1970, c. 284, s. 554.

**414.**—(1) Where a part of the tax on any land is in arrear for three years as provided by section 402 and subject to section 413, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs. <sup>When lands to be sold for taxes</sup>

(2) In municipalities whose officers have power to sell <sup>Treasurer to have power to add arrears accruing after return</sup> lands for arrears of taxes, the treasurer may add to the taxes shown in the list of lands liable to be sold for taxes any taxes that have fallen due since those shown

in the lists furnished by the treasurer to the clerk under section 402, and have been returned by the collector to him as provided in section 396 and such lands may be sold as if such last-mentioned taxes had been included in the statement furnished to him by the clerk under section 402. R.S.O. 1970, c. 284, s. 555.

Expenses  
added to  
arrears

**415.** The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. R.S.O. 1970, c. 284, s. 556.

By-law  
extending  
period of  
three years,  
etc.

**416.** The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 414, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law, and may also direct that only such lands be included in the warrant as belong to any classification mentioned in the by-law or are of the character mentioned therein. R.S.O. 1970, c. 284, s. 557.

Distinguish-  
ing lands in  
list annexed  
to warrant

**417.** In the list annexed to every warrant, the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or licence of occupation from the Crown or municipality, and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. R.S.O. 1970, c. 284, s. 558.

Correction  
of errors by  
treasurer

**418.** The county treasurer may, from time to time, correct any clerical error that he discovers or that may be certified to him by the clerk of any municipality. R.S.O. 1970, c. 284, s. 559.

Where  
distress on  
premises,  
treasurer  
may  
distrain

**419.** If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 387 applies thereto; but no sale of the land is invalid by reason of the treasurer not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. R.S.O. 1970, c. 284, s. 560.

**420.** A treasurer is not bound to make inquiry, before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land, or to inquire into or form any opinion of the value of the land. R.S.O. 1970, c. 284, s. 561.

Treasurer's  
duty on  
receiving  
warrant to  
sell

**421.**—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant and shall add thereto in a separate column a statement of the proportion of costs chargeable on each lot for advertising and for his commission or other lawful charges, distinguishing therein any of such lands that are unpatented or under lease or licence of occupation from the Crown as “unpatented” or “under Crown lease” or “under Crown licence”, as the case may be, and such list shall contain a notice that, unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place specified therein.

Treasurer  
to prepare  
list of lands  
to be sold

(2) Such list shall be published in *The Ontario Gazette* once during the month immediately preceding the period of time mentioned in section 422.

Publication

(3) A notice, stating that copies of the list of lands for sale for arrears of taxes may be had in the office of the treasurer and that such list has been published in *The Ontario Gazette* on the day specified in such notice and that, unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place named therein, shall be published once a week for the thirteen weeks immediately preceding the day of sale in at least one newspaper published in the county or in the case of a union of counties in at least one newspaper published in each county of the union, or where the sale is to be held by the treasurer of a municipality in at least one newspaper published in the municipality and if no newspaper is published in the county or municipality then in at least one newspaper published in an adjacent county or municipality. R.S.O. 1970, c. 284, s. 562.

Publication  
of list and  
notice of  
sale

**422.** The day of the sale shall be more than ninety-one days after the first publication of the list in *The Ontario Gazette*. R.S.O. 1970, c. 284, s. 563.

Time of  
sale

**423.** The treasurer of a county shall also post a printed copy of the list published in the newspaper in some

Notice to be  
posted up

convenient and public place at the court house of the county or district at least three weeks before the time of sale and the treasurer of a municipality other than a county shall also post a printed copy of such list in some convenient and public place at the place where the council of the municipality usually meets at least three weeks before the time of sale. R.S.O. 1970, c. 284, s. 564.

Tax sale  
districts

**424.**—(1) For the purpose of tax sales, the Lieutenant Governor in Council may by order in council divide a provisional judicial district, and the council of any county may by by-law divide the county, into tax sale districts, each of which may contain one or more municipalities.

Place of  
sales  
therein

(2) The order in council or by-law may provide that thereafter the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the order in council or by-law.

Payment of  
expenses

(3) Where any such order in council or by-law is passed, provision shall be made therein, or by further order in council or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales.

Advertise-  
ment, what  
to contain

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. R.S.O. 1970, c. 284, s. 565.

Adjourning  
sale, if no  
bidders

**425.** If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. R.S.O. 1970, c. 284, s. 566.

Mode in  
which the  
lands shall  
be sold  
by the  
treasurer

**426.**—(1) If the full amount of the taxes for which the land was offered for sale has not been collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first, and, in offering or selling such lands, it is not necessary to describe particularly the portion of the lot



that is to be sold, but it is sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes, and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 442 (2), and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection (3).

(2) If the treasurer fails at such sale to sell any land for the full amount of taxes, including the full amount of commission and other lawful charges and costs added under section 415, he shall at such sale adjourn it until a day then to be publicly named by him, not earlier than a week nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such taxes; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 442 (2), and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection (3).

When land does not sell for full amount of taxes

(3) If the price offered for any land at the adjourned sale is less than the full amount of the taxes for which the land was offered for sale and the charges and costs, or if no price is offered, it is lawful for the municipality to purchase the land for the amount due, provided that an appropriation has been made for the purpose and that previous notice by public advertisement in the local news-

Purchase by municipality

paper or in one of the local newspapers in which the original sale was advertised of intention so to do has been given by the treasurer; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of the sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 442 (2), and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, and such taxes shall be computed at the rate fixed by by-law for each year in which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontages shown upon the list of properties and the frontages thereof as settled by the Assessment Review Court for such local improvement. R.S.O. 1970, c. 284, s. 567.

Mode of  
selling land  
for taxes

**427.**—(1) Notwithstanding section 426, the treasurer is not obliged to sell for taxes only a portion of land separately assessed but may sell the whole of such land for the best price offered at the sale, and any money obtained by the treasurer as the price of such land shall be applied, firstly, in paying the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and, secondly, in payment of the taxes, including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land, and the balance, if any, shall be paid by the treasurer to the owner of the land or to such other person as may be authorized by law to receive the balance less such charge and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the balance, and it is the duty of the person claiming the balance to produce to the treasurer proof of his right to receive the balance; provided that the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the purchase price, together with 10 per cent of the full amount of the taxes for which the land was offered for sale and of the expenses of sale added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection

442 (2), and the balance, if any, outstanding of the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 426 (2), but if the purchaser is the municipality redemption as aforesaid may be made upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and together with 10 per cent added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 442 (2), and together with the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 426 (3).

(2) Any balance payable to the owner of the land sold or to any other person entitled thereto shall, if not claimed within six years after the sale, belong to the municipality absolutely.

Unclaimed  
balances

(3) Where an appropriation has been made for the purpose, the municipality may purchase lands under this section. R.S.O. 1970, c. 284, s. 568.

Purchase by  
municipality

**428.** If a purchaser fails to pay his purchase money immediately, the treasurer shall forthwith again put up the property for sale. R.S.O. 1970, c. 284, s. 569.

When  
purchaser  
fails to pay  
purchase  
money

**429.**—(1) Where the Crown whether as represented by the Government of Canada or the Government of the Province of Ontario, or any tribe or body of Indians or any member thereof, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown, tribe or body of Indians or any member thereof, therein is liable to be sold for arrears of taxes.

Land in  
which the  
Crown has  
an interest

(2) Where the treasurer so sells the interest of any person, it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and, whether so expressed or not, the tax deed in no wise affects the interest or rights of the Crown or tribe or body of Indians or any member thereof in the land sold, and gives the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold. R.S.O. 1970, c. 284, s. 570 (1, 2).

Tax deed  
not to affect  
interest of  
Crown

Validity of  
tax deed

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed is valid without requiring the consent of the Minister of Natural Resources. R.S.O. 1970, c. 284, s. 570 (3); 1972, c. 4, s. 12.

Sales not to  
be made  
where taxes  
less than  
\$10, or no  
improve-  
ments made

**430.** No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no *bona fide* improvements have been made by or on behalf of the locatee. R.S.O. 1970, c. 284, s. 571.

Sale of  
interest of  
lessee or  
tenant of  
municipal  
property

**431.** If the treasurer sells any interest in land of which the fee is in the municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant, and it shall be so distinctly expressed in the tax deed. R.S.O. 1970, c. 284, s. 572.

Sale of  
lands for  
taxes not to  
affect  
collection of  
other rates

**432.** No sale of lands for taxes or for rates under a drainage or local improvement by-law invalidates or in any way affects the collection of a rate that has been assessed against or imposed or charged upon such lands prior to the date of the sale, but that accrues or becomes due and payable after the rates or taxes in respect of which the sale is had became due and payable or after the sale. R.S.O. 1970, c. 284, s. 573.

Treasurer  
selling  
to give  
purchaser a  
certificate of  
land sold

**433.** The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the land to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 426 and 429, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. R.S.O. 1970, c. 284, s. 574.

Purchaser  
of lands  
deemed  
owner for  
certain  
purposes

**434.—(1)** The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the land from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.



(2) The purchaser is not liable for damage done to the property without his knowledge during the time the certificate is in force. Limitation of liability

(3) Where the purchaser is a municipality, it may make any expenditure necessary in order to keep the land in a proper state of repair or to insure the land, and the amount thereof with interest as provided in section 412 may be added to the amount required to redeem the land, provided that the treasurer has sent at least one month before making such expenditure a notice containing the particulars of the proposed expenditure and an estimate of the cost thereof to each encumbrancer, if any, and to the registered owner by registered mail to the address of such encumbrancer or owner if known to the treasurer and, if such address is not known to the treasurer, then to any address of such encumbrancer or owner appearing in the records of the land registry office or sheriff's office. R.S.O. 1970, c. 284, s. 575. Repairs

**435.** From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser ceases to have any further right in or to the land in question. R.S.O. 1970, c. 284, s. 576. Effect of tender of arrears, etc.

**436.** Every treasurer is entitled to 2½ per cent commission upon the sums collected by him, as aforesaid, except that, where the taxes against any parcel of land are less than \$10, the treasurer is entitled to charge, in lieu of his commission, 25 cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. R.S.O. 1970, c. 284, s. 577. Treasurer's commission

**437.** Where land is sold by a treasurer according to section 421 and the following sections of this Act, he may add the commission and other charges that he is authorized by this Act to charge for the services above-mentioned to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale of the arrears and costs incurred. R.S.O. 1970, c. 284, s. 578. Fees, etc., on sales of land

**438.** The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the Expenses of search in land registry office for description, etc.

part sold with a sufficient certainty, and, if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground, and he may make search, if necessary, in the land registry office to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the land registry office or the government maps, where a full description cannot otherwise be obtained, and the charges so incurred shall be included in the account and paid by the purchaser of the land sold or the person redeeming the land. R.S.O. 1970, c. 284, s. 579.

Treasurer  
entitled to  
no other  
fees

**439.** Except as hereinbefore provided, the treasurer is not entitled to any other fees or emoluments for any services rendered by him relating to the collection of arrears of taxes on lands. R.S.O. 1970, c. 284, s. 580.

Evidence of  
redemption

**440.** The treasurer shall give to the person paying redemption money a receipt stating the sum paid and the object of payment, and such receipt is evidence of the redemption. R.S.O. 1970, c. 284, s. 581.

Conveyance  
to former  
owner

**441.**—(1) Notwithstanding the other provisions of this Act or any other Act, where land that has been sold for taxes has been purchased by the municipality and the period for redemption has expired and where such land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 442 (2) is, at any time with the approval of the Ministry, entitled to a conveyance of such land upon payment of the full amount that would have been payable in respect of taxes, penalties and interest had the land not been sold for taxes, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such sale and of such conveyance. R.S.O. 1970, c. 284, s. 582 (1); 1972, c. 1, s. 1.

Further  
notice

(2) Notwithstanding subsection (1), the treasurer may, at any time after the expiration of ten years from the date of the sale, cause to be sent by registered mail, to each person to whom notice was sent under subsection 442 (2), a further notice that, if he does not apply for a conveyance of the land under subsection (1) and tender the payment required under subsection (1) within six months of the date the notice is sent, his right to do so will expire.

Cessation  
of rights  
under  
subs. (1)

(3) If a person notified under subsection (2) does not apply for a conveyance and tender the payment required under subsection (1) within such six months, his right to do so ceases to exist. R.S.O. 1970, c. 284, s. 582 (2, 3).

**442.**—(1) Within ninety days from the day of sale, the treasurer shall, if the land is not previously redeemed, make or cause to be made search in the land registry office and in the sheriff's office to ascertain whether or not there are mortgages or other encumbrances affecting the land sold and who is the registered owner of the land. Treasurer to search title

(2) The treasurer shall, within the said period of ninety days from the day of the sale, if the land is not previously redeemed, send by registered mail to each encumbrancer, if any, and to the registered owner, to the address of such encumbrancer or owner as it appears at that time in the records of the municipality in which the land is situated or, if such address does not appear in any of the records of such municipality or is not known to the treasurer, to any address of such encumbrancer or owner appearing in the records of the land registry office or sheriff's office, a notice stating that the land has been sold for taxes, the date of the sale, and that the encumbrancer or owner is at liberty within one year from the day of sale, exclusive of the day of sale, to redeem the estate sold by paying to the treasurer the amount required to redeem the estate and the amount of the charges for the searches aforesaid and for registration of the notice mentioned in subsection (3) and postage and 25 cents for the notice, the amount aforesaid to be specified in the notice. Notice to encumbrancer and owner

(3) Before sending the notice mentioned in subsection (2), the treasurer shall ascertain from the treasurer of the municipality in which the land is situated the address of each owner and encumbrancer as it appears in the records of such municipality, and the treasurer of the local municipality shall supply such address or addresses to the county treasurer upon the request of the county treasurer. County treasurer to ascertain address of owner, etc.

(4) Where a notice has been sent under subsection (2) to a corporation, the treasurer shall, within the time limit in subsection (2), send by registered mail to the Public Trustee a copy of the notice so sent. Copy of notice to Public Trustee

(5) The treasurer shall, within ninety days from the date of sale, register in the land registry office a written notice signed by him stating that the land described therein has been sold for taxes, the date of the sale, the time within which the land may be redeemed and the amount required to redeem the land. Registration of notice of sale

(6) The notice mentioned in subsection (5) shall have attached thereto or endorsed thereon a statutory declaration of the treasurer setting forth the names and addresses of all persons to whom he has sent the notice required by subsection (2) and the date of sending the notice to each such person. Registered notice to be verified by affidavit as to sending of notices

Receipts if  
arrears paid

(7) If within the time aforesaid payment of the amount is made by any such encumbrancer or by the owner of the land, the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and it is evidence of the redemption, and any encumbrancer making the payment may add the amount to his debt.

Who to be  
entitled to  
receipt

(8) In case of payment by the owner, the receipt shall be given to him and, in case of payment by one or more encumbrancers and not by the owner, the receipt shall be given to that encumbrancer who is first in priority, and the amount paid by other persons shall be repaid to them.

Receipt of  
redemption

(9) If under subsection (5) a notice of sale of land for taxes has been registered and the land is redeemed, the treasurer shall, upon payment of the redemption money, deliver to the person paying the money a receipt signed by himself stating therein a description of the land redeemed, the person who redeemed the land and the date and amount paid for redemption together with particulars of the registration of the notice, and a certified copy thereof shall be registered in the land registry office by the treasurer.

Execution  
and delivery  
of deed

(10) If the redemption money is not paid within the time aforesaid, the treasurer upon payment of such charges for searches, postage and notice and \$1 for the deed shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold.

Deed may  
include  
several lots

(11) Such deed, if requested, may include any number of lots that are to be conveyed to the same person.

Late searches  
and notices

(12) In any case where the treasurer fails to comply with the provisions of subsection (1) or (2) as to the time from the day of sale within which a search in the land registry office and sheriff's office is made or notices to any encumbrancer and to the registered owner are sent, he may subsequently make or cause to be made the said search and send the notice, provided that in such case the time for redemption shall be within nine months from the day upon which the notice is sent and the notice shall so state. R.S.O. 1970, c. 284, s. 583.

Interpre-  
tation

**443.** The words "treasurer" and "warden" in section 442 mean the person who at the time of the execution of the deed mentioned in that section holds such office. R.S.O. 1970, c. 284, s. 584.



**444.**—(1) Out of the redemption money, the treasurer shall pay to the purchaser, not being the municipality, or his assigns or other legal representatives, <sup>Application of redemption money</sup>

- (a) the sum paid by him together with 10 per cent of the full amount of the taxes for which the land was offered for sale; or
- (b) if the sum paid by the purchaser was less than the amount of taxes for which the land was offered for sale, the sum paid by him together with 10 per cent of such sum,

and the balance less the lawful costs, charges and expenses of the treasurer belongs to the municipality.

(2) Where the municipality is the purchaser, the whole of the redemption money belongs to it less the lawful costs, charges and expenses of the treasurer. <sup>Where municipality is purchaser</sup> R.S.O. 1970, c. 284, s. 585.

**445.**—(1) The tax deed shall be according to Form 9, or to the same effect, and shall state the date and cause of the sale, and the price, and shall describe the land according to section 438, and has the effect of vesting the land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, and no such deed is invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as “patented” or “unpatented” or “held under a licence of occupation” or “held under lease” or otherwise. <sup>Contents of deed and effect thereof</sup>

(2) Notwithstanding subsection (1), a tax deed is not valid unless there is affixed thereto a statutory declaration of the treasurer that he has sent to the encumbrancers and registered owner the notice as provided in section 442, and such declaration shall form part thereof, and, where the tax deed has been registered, the treasurer shall deposit the declaration in the proper land registry office where it shall be attached to the tax deed of the land in respect of which it was made. <sup>Declaration of treasurer</sup> R.S.O. 1970, c. 284, s. 586.

**446.** The treasurer shall enter in a book, which the county council or council of the city or town, as the case may be, shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall together with all documents relating to lands sold for taxes be kept by <sup>Treasurer to enter in a book descriptions of lands conveyed to purchasers</sup>

him among the records of his office. R.S.O. 1970, c. 284, s. 587.

Deed to be binding if land not redeemed in one year

**447.** If any part of the taxes for which any land has been sold in pursuance of any Act heretofore in force in Ontario or of this Act had at the time of the sale been in arrear for three years as mentioned in section 402, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) is, notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying such taxes or in any proceedings subsequent thereto, final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the taxes are in arrear or redeem the land within one year after the sale thereof, and, in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the deed or to recover the land is barred. R.S.O. 1970, c. 284, s. 588.

Deed valid if not questioned within a certain time

**448.** Where land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds are valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some court of competent jurisdiction within two years from the time of sale. R.S.O. 1970, c. 284, s. 589.

Certain treasurer's deeds not to be invalid if the sale is valid

**449.** In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, is not invalid by reason of the statute under the authority whereof the sale was made having been repealed at or before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. R.S.O. 1970, c. 284, s. 590.

Rights of entry adverse to tax purchaser

**450.** In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 10 of the *Conveyancing and Law of Property Act* does not apply, to the end and intent that in such cases the right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII, and chaptered 9, be

R.S.O. 1980, c. 90

Common Law and 32 H. VIII, c. 9, ss. 2, 4 and 6, revived

revived, and the same are and shall continue to be revived. R.S.O. 1970, c. 284, s. 591.

**451.**—(1) In all cases not being within any of the exceptions and provisions of subsection (3), where land having been legally liable to be assessed for taxes is sold for arrears of taxes, then, in case an action is brought for the recovery of the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements.

Adjustment  
of damages  
when sale  
held to be  
invalid

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into court for the defendant the amount of such damages, or, if the defendant desires to retain the land, he may retain it, on paying into court within such period of one month, or on or before any subsequent day to be appointed by the court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff, on filing in court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, is entitled to the money so paid in by the defendant.

Plaintiff to  
pay damages  
into court  
before writ  
of possession  
issues, or tax  
purchaser  
may elect to  
retain the  
land on  
paying its  
value

(3) This section does not apply,

When  
section not  
to apply

- (a) if the taxes for non-payment whereof the land was sold have been fully paid before the sale;
- (b) if, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to the redemption of the lands;
- (c) where, on the ground of fraud or evil practice by the purchaser at such sale, a court would grant equitable relief.

if taxes  
paid before  
sale

if land  
redeemed

in case  
of fraud

R.S.O. 1970, c. 284, s. 592.

Where the plaintiff is not tenant in fee, the value of the land to be paid into Supreme Court

**452.**—(1) In any of the cases named in section 451, wherein the plaintiff is not tenant in fee simple, the payment into court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court, and the plaintiff and all parties entitled to and interested in the lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, are entitled to the money so paid in such proportions and shares as to the Supreme Court, having regard to the interests of the various parties, seems proper.

Payment into court where the defendant is not tenant in fee

(2) In any of such cases wherein the defendant is not tenant in fee simple, the payment of damages into court to be made as aforesaid by the plaintiff shall be into the Supreme Court. R.S.O. 1970, c. 284, s. 593.

Any other person interested may pay in value assessed if defendant does not

**453.**—(1) If the defendant does not pay into court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the court, as mentioned in subsection 451 (2), any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment mentioned in subsection 451 (2), or before any subsequent day appointed by the court as mentioned in that subsection for payment by the defendant, pay into the court the said value of the land, and until the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

Payer to have lien for such proportion as exceeds his interest

(2) The defendant or other person so paying in is entitled, as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, and on hearing the parties, seems fit. R.S.O. 1970, c. 284, s. 594.

How owner can obtain value of the land paid in

**454.** If the defendant or any other person interested pays into court in manner aforesaid, the plaintiff is entitled to the amount so paid in on filing in court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person to secure his lien as aforesaid. R.S.O. 1970, c. 284, s. 595.



**455.** If the value of the land is not paid into court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons who, if the sale for taxes were valid, would be entitled to the land, in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, seems fit. R.S.O. 1970, c. 284, s. 596.

How the  
value of  
improve-  
ments, etc.,  
paid in can  
be obtained

**456.—(1)** In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple, and the defendant (if his title were good) would be also so entitled, if the defendant at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay the court a sum mentioned in such notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff, and if the jury, or the judge, if there be no jury, before whom the action is tried, assesses damages for the defendant as provided in sections 451 to 455 and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant is entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

Provisions  
as to costs  
where value  
of the land  
and improve-  
ments, etc.,  
only in  
question

**(2)** If on the trial it is found that such notice was not given as aforesaid, or if the judge or jury assesses for the defendant a less amount than that claimed in the notice, or finds that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land) that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land, the judge shall not certify, and the defendant is not entitled to the costs of the defence, but shall pay costs to the plaintiff and, upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. R.S.O. 1970, c. 284, s. 597.

Provisions  
as to costs  
in certain  
cases

Tax purchaser without other remedy whose title is invalid to have a lien for purchase money, etc.

**457.** In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser has a lien on the lands for the purchase money paid at the sale, and interest thereon at the rate of 10 per cent per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners and in such manner as the Supreme Court thinks proper. R.S.O. 1970, c. 284, s. 598.

Contracts between tax purchaser and original owner continued

**458.** No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes as to purchase, lease or otherwise, is annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise, remain in force as if this Act had not been passed. R.S.O. 1970, c. 284, s. 599.

Sections 450 to 458 not to apply where the owner has occupied since sale

**459.** Nothing in sections 450 to 458 affects the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the land has since the sale been in the occupation of such owner or of those claiming through or under him. R.S.O. 1970, c. 284, s. 600.

Construction of "tax purchaser", "original owner"

**460.** In the construction of sections 449 to 459, occupation by a tenant shall be deemed the occupation of the reversioner, and the words "tax purchaser" apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and includes and extends to all persons claiming through or under him, and the words "original owner" include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. R.S.O. 1970, c. 284, s. 601.

Where tax arrears procedures of R.S.O. 1980, c. 303 in effect

**461.** Where the tax arrears procedures under the *Municipal Affairs Act* are in effect in a municipality as defined in that Act, it is not necessary for the treasurer or other officer of the municipality to furnish to the county treasurer or sheriff any of the information or statements required under this Act in respect of tax arrears, and the powers and duties of the warden or treasurer of a county or sheriff under this Act in respect of tax arrears and tax sales do not apply in respect of the municipality, and all the powers and duties of the county treasurer or sheriff in respect of arrears of taxes are vested in the

treasurer of the municipality. R.S.O. 1970, c. 284, s. 602; 1972, c. 1, s. 104 (6).

**462.** In cities and towns, arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities, and for such purposes the municipal officers of cities and towns shall perform the same duties and have the same powers as the like officers in other municipalities under sections 397 to 460, and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively and have the like powers, and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town, provided that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out does not render any proceedings under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. R.S.O. 1970, c. 284, s. 603.

**463.** The council of a county may by by-law declare that all the powers conferred upon cities and towns by section 462 or any of the sections referred to in that section, and all duties imposed by such sections upon the officers of such cities and towns and the mayors thereof, shall thereafter apply to any township or village named in the by-law, and thereupon such powers conferred and such duties imposed by such sections are vested in and apply respectively to the corporation of such township or village and to the officers and reeve or other head thereof in the same manner and to the same extent as in the case of cities and towns and the officers and mayors thereof. R.S.O. 1970, c. 284, s. 604.

**464.** Arrears of taxes due to the corporation of any municipality in a provisional judicial district shall be collected and managed in the same way as like arrears due to municipalities in counties, and the treasurer and head of such municipality shall perform the like duties in the collection and management of arrears of taxes as are performed in a county by the treasurer and warden. R.S.O. 1970, c. 284, s. 605.

**465.** Every municipal council in paying over any rate to a body for which it is required by law to levy rates or raise money shall, except where otherwise provided, supply out of the funds of the corporation any deficiency caused

by the non-payment of taxes, and, where any deficiency is caused by the abatement or refund of or inability to collect taxes, the council shall charge back a proportionate share thereof to every such body, provided that the council shall not charge back any deficiency caused by an abatement or refund of taxes made as a result of an application brought under clause 496 (1) (e). R.S.O. 1970, c. 284, s. 606; 1972, c. 124, s. 23.

On  
incorporation  
of a town,  
county  
treasurer to  
transmit list  
of arrears  
to town  
treasurer

**466.** Upon the incorporation of a new town in a county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town and shall transmit the list to the treasurer of the town, who after receipt thereof has, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in the list the county treasurer shall not include any lot then advertised for sale for taxes. R.S.O. 1970, c. 284, s. 607.

Arrears of  
taxes, how  
collected  
where new  
municipality  
formed

**467.** In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town, and, for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached shall immediately upon the formation thereof make out lists of the arrears of taxes then due in their respective portions, and transmit the lists to the treasurer of the county in which the new municipality is situate, or of the town as the case may be, and, where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. R.S.O. 1970, c. 284, s. 608.

Who may  
take  
proceedings  
to enforce  
collection

**468.** The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, have power, respectively, to take for the collection of such arrears of taxes all the proceedings that treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrears for taxes, and, if the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before



its formation, the sale of such lands shall be completed in the same manner as if the new municipality had not been formed. R.S.O. 1970, c. 284, s. 609.

**469.** Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and warden of the county to which the territory belongs have power respectively to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1970, c. 284, s. 610.

Proceedings where returns made to treasurer before separation

**470.** Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and mayor of the city or town have the power to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1970, c. 284, s. 611.

Sales for taxes on lands that have been annexed to city or separated town

**471.—(1)** Where land sold for arrears of taxes was a dominant tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements appurtenant thereto shall be deemed to have passed to the purchaser.

Provision as to easements attaching to dominant tenement

**(2)** Where land sold for arrears of taxes was a servient tenement at the time of sale and was so sold after the

Provision as to easements affecting servient tenement

3rd day of April, 1930, the easements to which the land was subject are not affected by the sale.

Restrictive  
covenant

(3) For the purposes of this section, a restrictive covenant running with the land shall be deemed to be an easement.

Savings as  
to rights of  
Crown

(4) Nothing in this section in any way affects or defeats the Crown with respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered. R.S.O. 1970, c. 284, s. 612.

Effect of  
tax sale  
or tax  
certificate  
registration

**472.**—(1) Where land, the mining rights in which are liable for area tax under the *Mining Act*,

(a) is sold for taxes under this Act; or

(b) is vested in a municipality or school board upon registration of a tax arrears certificate under the *Municipal Affairs Act*,

R.S.O. 1980,  
cc. 268, 303

on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality or school board, as the case may be, and the sale or registration does not in any way affect the mining rights. R.S.O. 1970, c. 284, s. 613 (1); 1972, c. 1, s. 104 (6); 1978, c. 87, s. 40 (21).

before  
April 1, 1954

R.S.O. 1980,  
c. 269

(2) Notwithstanding subsection (1) or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under the *Mining Tax Act* or its predecessor, where land the mining rights in which were liable for area tax under the *Mining Tax Act* or its predecessor,

(a) was sold for taxes under this Act or its predecessor; or

(b) was vested in a municipality or school board upon registration of a tax arrears certificate under the *Municipal Affairs Act* or its predecessor,

before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality or school board, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality or school board, as the case may be, without severance, both

the surface and mining rights. R.S.O. 1970, c. 284, s. 613 (2); 1972, c. 1, s. 104 (6); 1978, c. 87, s. 40 (21).

(3) Where lands mentioned in subsection (1) or (2) are, under the provisions of this Act or the *Municipal Affairs Act*, vested in a mining municipality, the Crown in right of Ontario may purchase such lands at a price not exceeding \$7.50 a hectare. R.S.O. 1970, c. 284, s. 613 (3); 1972, c. 1, s. 104 (6); 1978, c. 87, s. 40 (21). Purchase by Crown of lands vested in municipalities under subss. (1, 2) R.S.O. 1980, c. 303

#### RESPONSIBILITY OF OFFICERS

**473.** Every treasurer, clerk or other officer who refuses or neglects to perform any duty required of him by this Part, for which no other penalty is imposed, is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 284, s. 614. Offence for officers failing to perform their duty

**474.** Every clerk, treasurer or collector, and every assistant or other person in the employment of the municipality, acting under this Part or the *Assessment Act* who makes a fraudulent collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts or permits to be inserted therein the name of any person that should not be entered, or fraudulently omits or allows to be omitted the name of any person that should be entered, or wilfully omits any duty required of him by this Part or the *Assessment Act* is guilty of an offence and on conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1970, c. 284, s. 615. Offence for fraudulent collection, etc.

**475.** If a collector refuses or neglects to pay the sums contained in his roll to the proper treasurer or other person legally authorized to receive the same, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant under his hand and seal directed to the sheriff of the county or city, as the case may be, commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. R.S.O. 1970, c. 284, s. 616. Proceedings for compelling collectors to pay over moneys collected to the proper treasurer

**476.** The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. R.S.O. 1970, c. 284, s. 617. Warrant to be delivered to sheriff, etc.

Sheriff to  
execute  
warrant and  
pay money  
levied

**477.** The sheriff to whom the warrant is directed shall, within forty days, cause the warrant to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. R.S.O. 1970, c. 284, s. 618.

Mode of  
compelling  
sheriff to  
pay over

**478.** If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the money, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the Supreme Court or a judge thereof for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. R.S.O. 1970, c. 284, s. 619.

When  
returnable

**479.** The order *nisi* or summons is returnable at such time as the court or judge directs. R.S.O. 1970, c. 284, s. 620.

Hearing  
on return

**480.** Upon the return of the order *nisi* or summons, the court or judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. R.S.O. 1970, c. 284, s. 621.

*Fi. fa.* to  
the coroner  
to levy the  
money

**481.** If the court or judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the court or judge shall order the proper officer of the court to issue a writ of *fieri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town, as the case may be, for which the collector is in default. R.S.O. 1970, c. 284, s. 622.

Tenor of  
such writ  
and  
execution  
thereof

**482.** The writ shall direct the coroner to levy of the goods and chattels of the sheriff the sum that the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution, and the writ shall bear date on the day of its issue, and is returnable forthwith on its being executed, and the coroner, upon executing the writ, is entitled to the same fees as upon a writ grounded upon a judgment of the court. R.S.O. 1970, c. 284, s. 623.

Offence  
for sheriff  
neglecting to  
perform duty

**483.** Every sheriff who wilfully omits to perform any duty required of him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 284, s. 624.



**484.** All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the money is raised, shall be assessed, levied and collected by, and accounted for and paid over to, the same persons, in the same manner and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. R.S.O. 1970, c. 284, s. 625.

Payment of money collected for the Province

**485.** All money collected for county purposes or for any of the purposes mentioned in section 484 is payable by the collector to the township, town or village treasurer, and by him to the county treasurer, and the corporation of the township, town or village is responsible therefor to the corporation of the county. R.S.O. 1970, c. 284, s. 626.

How money collected for county purposes to be paid over

**486.** Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, applies to money collected or received for county purposes or for any of the purposes mentioned in section 493. R.S.O. 1970, c. 284, s. 627.

Collectors or treasurers bound to account for all money collected by them

**487.**—(1) The treasurer of every township, town or village shall, on or before the 20th day of December in each year, pay to the treasurer of the county all moneys that were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 486, and, in case of non-payment of such moneys or any portion thereof on or before such date, the township, town or village so in default shall pay to the county interest thereon at the rate of 12 per cent per annum from such date until payment is made.

Local treasurer to pay over county moneys to county treasurer

(2) The council of a county may by by-law provide for a rate of interest of less than 12 per cent per annum in case of non-payment of moneys assessed for county purposes and may also provide for payment of a discount at such rate per annum as the by-law may set forth for payment of moneys or any portion thereof assessed for county purposes if paid prior to the 20th day of December in the year in which the moneys are payable. R.S.O. 1970, c. 284, s. 628.

Reduced penalty rate and allowance of discount for prepayment

Mode of  
enforcing  
such  
payments

**488.** If default is made in such payment, the county treasurer may retain or stop a like amount out of any money that would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or, where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. R.S.O. 1970, c. 284, s. 629.

How sheriff  
to make  
levy

R.S.O. 1980,  
c. 146

**489.** The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs, in the same manner as is provided by the *Execution Act* in the case of executions against municipal corporations. R.S.O. 1970, c. 284, s. 630.

Treasurer,  
etc., to  
account for  
and pay  
over Crown  
money

**490.** The county, city or town treasurer is accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 484, and shall pay over such money to the Treasurer of Ontario. R.S.O. 1970, c. 284, s. 631.

Municipality  
responsible  
for such  
money

**491.** Every county, city and town is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town in virtue of his office shall be duly paid over and accounted for by him according to law. R.S.O. 1970, c. 284, s. 632.

Treasurer,  
etc.,  
responsible  
to county,  
etc.

**492.** The treasurer and his sureties are responsible and accountable for such money to the county, city or town, and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town applies to all money mentioned in section 484 and may be enforced against the treasurer or his sureties in case of default. R.S.O. 1970, c. 284, s. 633.

Bonds to  
apply to  
school  
money

**493.** The bond of the treasurer and his sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the county, city or town by stopping a like amount out of any public money that would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. R.S.O. 1970, c. 284, s. 634.

City, etc.,  
responsible  
for default  
of treasurer,  
etc.

**494.** Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. R.S.O. 1970, c. 284, s. 635.

## MISCELLANEOUS

**495.**—(1) Where the treasurer ascertains that certain <sup>Uncollectable taxes</sup> taxes are uncollectable, he shall recommend to the council that such outstanding taxes be struck off the roll, and the council may direct the treasurer to strike such taxes off the roll.

(2) Notwithstanding subsection (1), the treasurer may <sup>Taxes uncollectable by reason of court decision</sup> strike from the roll taxes that by reason of a decision under section 496, or of a decision of a judge of any court are uncollectable. 1972, c. 124, s. 24.

**496.**—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by any person, <sup>Cancellations, reductions, refunds, etc., of taxes</sup>

- (a) in respect of real property liable to taxation at the rate levied on commercial assessment as defined in the *Ontario Unconditional Grants Act* that has ceased to be real property that would be liable to be taxed at such rate; or <sup>R.S.O. 1980, c. 359</sup>
- (b) in respect of real property that has become exempt from taxation during the year or during the preceding year after the return of the assessment roll; or
- (c) in respect of a building that during the year or during the preceding year after the return of the assessment roll,
  - (i) was razed by fire, demolition or otherwise, or
  - (ii) was damaged by fire, demolition or otherwise so as to render it substantially unusable for the purposes for which it was used immediately prior to the damage; or
- (d) in respect of a mobile unit that was removed from the municipality during the year or during the preceding year after the return of the assessment roll; or
- (e) who is unable to pay taxes because of sickness or extreme poverty; or
- (f) who is overcharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar

type of error, but not an error in judgment in making the assessment upon which the taxes have been levied; or

- (g) liable for business tax who has not carried on business for the whole year, except where the business was intended to be or was capable of being carried on during a part of the year only, or was not carried on for a period of less than three months during the year by reason of repairs to or renovations of the premises in which the business was carried on. 1972, c. 124, s. 25, *part*; 1974, c. 136, s. 25; 1979, c. 50, s. 2 (1); 1979, c. 101, s. 11.

By-law to provide for exercise by Assessment Review Court of functions of council

- (2) The council may, by by-law passed on or before the 31st day of December in any year, provide that the Assessment Review Court shall exercise the functions of the council under subsections (7), (12) and (22) and any such by-law shall apply to applications made in and after the year in which such by-law is passed and shall continue so to apply until repealed.

Certified copies of by-law to regional registrar and assessment commissioner

- (3) The clerk of the municipality shall forthwith forward certified copies of any by-law passed under subsection (2) and of any by-law passed repealing any such by-law to the regional registrar of the Assessment Review Court and to the assessment commissioner. 1973, c. 175, s. 9 (1).

Time for making application

- (4) The application may be made at any time during the year in respect of which the application is made and until the 28th day of February in the following year and notice in writing of the application shall be given to the clerk of the municipality who shall, if the municipality has passed a by-law under subsection (2), forthwith forward such notice to the regional registrar of the Assessment Review Court and the regional registrar shall in turn forthwith forward a copy of such notice to the assessment commissioner. 1973, c. 175, s. 9 (2).

Notice of hearing

- (5) Notice of any hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Application by clerk

- (6) Where any person who is entitled to apply for the cancellation, reduction or refund of taxes under clause (1) (f) or (g) fails to apply, the clerk of the municipality may apply in his stead and the provisions of this section apply with necessary modifications to such application. 1972, c. 124, s. 25, *part*.



(7) Where the council has not passed a by-law under subsection (2), the council, subject to such restrictions and limitations as are contained in this section, may reject the application or,

Powers of council

- (a) where the taxes have not been paid, cancel the whole of the taxes or reduce the taxes; or
- (b) where the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) where the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 9 (3).

(8) Where a council or the Assessment Review Court has made a decision in any year under subsection (7) to cancel, refund or reduce taxes for that year in respect of a building mentioned in clause (1) (c) and where subsequently the council or the Assessment Review Court, as the case may be, is satisfied that the building has been reconstructed or repaired and has been returned to use prior to the end of that year, the council or the Assessment Review Court, as the case may be, may direct that such portion as it considers appropriate of the tax reduction or of the taxes that were cancelled or refunded be restored to the collector's roll as taxes owing for that year and such a direction may be made at any time up to the 28th day of February of the immediately following year.

Restoration of taxes to tax roll

(9) No direction shall be made under subsection (8) in respect of taxes on any building without first affording an opportunity to be heard to any person who, according to the collector's roll, would be chargeable for the taxes if a portion thereof were restored to the collector's roll.

Right to hearing

(10) The provisions of this section respecting an appeal of a decision made under subsection (7) apply with necessary modifications to a direction made under subsection (8).

Appeals

(11) Taxes restored to a collector's roll for any year pursuant to a direction made under subsection (8) shall, upon notice to the person chargeable therewith, become payable as part of the next installment of taxes payable by that person in that year following the giving of a notice or demand therefor and where no installment remains payable in the year following the giving of the notice or demand or where the notice or demand is given in the next following year, the taxes mentioned in the notice shall become due and payable or in arrears, as the case may be, on the fifteenth day

Payment

following the giving of the notice or demand, and where the notice or demand was given in the next following year interest added under section 412 shall accrue from the date that the taxes became due and payable, or in arrears, and not from the 31st day of December of the year in which the taxes were levied. 1980, c. 74, s. 26 (1).

Hearing and  
disposition

(12) Subject to subsection (13), the council shall hear and dispose of every application not later than the 30th day of April in the year following the year in respect of which the application is made and the clerk of the municipality shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and such notice shall state thereon that such decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 9 (4); 1980, c. 74, s. 26 (2).

Idem

(13) Where the council has passed a by-law under subsection (2), the Assessment Review Court shall hear and dispose of every application not later than the 30th day of April in the year following the year in respect of which the application is made. 1973, c. 175, s. 9 (5); 1980, c. 74, s. 26 (3).

Appeals

(14) An appeal may be had to the Assessment Review Court by the applicant from the decision of the council or where the council has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo*. 1972, c. 124, s. 25, *part*.

Notice of  
appeal

(15) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court, within fourteen days after notice of the decision of the council has been given by the clerk of the municipality under subsection (12), or, within fourteen days after the 30th day of April, where the council has omitted, neglected or refused to deal with an application under this section. 1972, c. 124, s. 25, *part*; 1980, c. 74, s. 26 (4).

Notice of  
hearing by  
Assessment  
Review  
Court

(16) Notice of any hearing by the Assessment Review Court under this section shall be given by mail by the regional registrar of the Assessment Review Court to the clerk of the municipality and to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the court. 1972, c. 124, s. 25, *part*.

Powers of  
Assessment  
Review Court

(17) The Assessment Review Court shall have, with respect to hearings or appeals under this section, the same powers as the council has under subsection (7). 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 9 (6).

(18) Notice of the decision of the Assessment Review Court shall be given by the regional registrar of the Assessment Review Court by mail to the persons to whom notice of the hearing of such application was given, and such notice shall state therein that such decision may be appealed to the county judge within fourteen days of the mailing of such notice. 1972, c. 124, s. 25, *part*. Notice of decision of Assessment Review Court

(19) An appeal may be had to the county judge by the applicant or the municipality from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an application or appeal under this section and such appeal shall be a hearing *de novo* and the provisions of subsections 42 (3), (4), (6), (7) and (8) of the *Assessment Act* apply with necessary modifications. 1973, c. 175, s. 9 (7). Appeal to county judge  
R.S.O. 1980, c. 31

(20) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court and a copy thereof to the municipal clerk, within fourteen days after notice of the decision of the Assessment Review Court has been given by the regional registrar of the Assessment Review Court under subsection (18), provided that where the municipality appeals it shall send a copy of the notice of appeal to all persons interested in accordance with this subsection. Notice of appeal to county judge

(21) An appeal may be had to the Municipal Board from a decision of the county judge under subsection (19) and the provisions of section 47 of the *Assessment Act* apply with necessary modifications. 1972, c. 124, s. 25, *part*. Appeals to O.M.B.

(22) Where a person makes application for the cancellation, reduction or refund of taxes in respect of business assessment or assessment under subsection 7 (3) of the *Assessment Act*, the council or the Assessment Review Court, as the case may be, on notice to any person who occupied the premises and carried on business for the whole or any part of the period in respect of which the application is made, may direct that a proper proportion of the taxes be levied against such person for the time during which such person was in occupation although the name of such person does not appear on the assessment roll in respect of such premises, and in determining the amount payable regard shall be had to the nature of the business carried on. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 9 (8). Occupant may be required to pay part of taxes

Proportionate  
cancellation,  
refund, etc.

(23) A cancellation, reduction or refund under clause (1) (b) shall be for a proportionate part of the taxes based on the number of months in the year during which the exemption existed.

Idem

(24) A cancellation, reduction or refund under clause (1) (c) shall be for a proportionate part of the taxes based on the number of months in the year or years after the building was razed in respect of which taxes were levied. 1972, c. 124, s. 25, *part*.

Notice of  
decision to  
assessment  
commissioner

(25) A copy of each notice of decision referred to in subsections (12) and (18) shall be sent by mail to the assessment commissioner by the clerk of the municipality or the regional registrar of the Assessment Review Court, as the case may be, at the same time as the notice of decision is given under subsections (12) and (18), provided that failure to send such copy to the assessment commissioner shall not invalidate any proceedings taken under this section. 1973, c. 175, s. 9 (9).

Recommendation  
for increase  
of taxes where  
gross error

**497.**—(1) The treasurer may by filing a notice of the recommendation with the clerk of the municipality recommend to the council that the taxes levied against any person be increased in the year in which the recommendation is made, where he ascertains that such person has been undercharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied. 1972, c. 124, s. 25, *part*.

By-law to  
provide for  
exercise by  
Assessment  
Review Court  
of functions  
of council

(2) Where the council has passed a by-law under subsection 496 (2), the council may by the same by-law or by a subsequent by-law provide that the Assessment Review Court shall exercise the functions of the council under subsection (5) and where a subsequent by-law is passed, the clerk of the municipality shall forthwith forward a certified copy thereof and of any by-law passed repealing any such by-law to the regional registrar of the Assessment Review Court and to the assessment commissioner.

Notices  
to be  
forwarded  
to regional  
registrar  
and to  
assessment  
commissioner

(3) Where the council has provided that the Assessment Review Court shall exercise the functions of the council as referred to in subsection (2), the clerk of the municipality shall forthwith forward to the registrar of the Assessment Review Court, as they are received by him from time to time, all notices filed under subsection (2) and the regional registrar shall in turn forthwith forward a copy of such notices to the assessment commissioner and the provisions of subsections (4), (5), (6), (7) and (8) shall not apply to the recommendations to which such notices relate. 1973, c. 175, s. 10 (1), *part*.



(4) Notice of the recommendation and of the date upon which it is to be dealt with by the council shall be given by mail by the clerk of the municipality to the treasurer and to the person in respect of whom the recommendation is made not less than fourteen days before the date upon which the recommendation is to be dealt with by the council. Notice of recom-  
mendation

(5) The council may reject the recommendation or may increase the taxes to the correct amount, and the amount of the increase, subject to subsection (11), is collectable as if it had been originally levied and demanded. Powers of  
council

(6) Forthwith after the council makes its decision, the clerk of the municipality shall cause notice thereof to be given by mail to the person in respect of whom the recommendation was made and such notice shall state therein that the decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice. Notice of  
decision

(7) An appeal may be had to the Assessment Review Court by the person in respect of whom the recommendation was made from the decision of the council and such appeal shall be a hearing *de novo*. Appeal

(8) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court, within fourteen days after notice of the decision of the council has been given under subsection (6). Notice of  
appeal

(9) Notice of the appeal and of the date fixed for hearing shall be given by the regional registrar of the Assessment Review Court to the clerk of the municipality and to the person appealing not less than fourteen days before the appeal is to be dealt with by the Assessment Review Court. 1972, c. 124, s. 25, *part*. Notice of  
hearing by  
Assessment  
Review  
Court

(10) Where the council has provided that the Assessment Review Court shall exercise the functions of the council as referred to in subsection (2), notice of the date upon which the recommendation is to be dealt with by the Assessment Review Court shall be given by the regional registrar of the Court to the clerk of the municipality and to the person in respect of whom the recommendation is made not less than fourteen days before the date upon which the recommendation is to be dealt with by the Court. 1973, c. 175, s. 10 (1), *part*. Notice of  
date when  
recommenda-  
tion to be  
dealt with

Powers of  
Assessment  
Review  
Court

(11) The Assessment Review Court in dealing with appeals and recommendations under this section shall have the same powers as the council has under subsection (5). 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 10 (2).

Notice of  
decision of  
Assessment  
Review  
Court

(12) Forthwith after the Assessment Review Court makes its decision, the regional registrar shall cause notice thereof to be given by mail to the persons to whom notice was given under subsection (9) or (10), as the case may be, and such notice shall state thereon that the decision may be appealed to the county judge within ten days of the mailing of such notice. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 10 (3).

When  
increase  
payable

(13) The amount of any increase in taxes is not payable until fourteen days after the mailing of the notice under subsection (6) or, if an appeal is made to the Assessment Review Court or if the Assessment Review Court deals with the recommendation in the first instance, until ten days after the decision of the Assessment Review Court or, if an appeal is made to the county judge, until ten days after the decision of the county judge, and is not subject to any penalties applicable to taxes that are overdue and unpaid until such amount is payable. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 10 (4).

Appeals to  
county judge

(14) An appeal may be had to the county judge by or on behalf of the municipality or by the person in respect of whom the recommendation was made from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo* and the provisions of subsections 42 (3), (4), (6), (7) and (8) of the *Assessment Act* apply with necessary modifications. 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 10 (5).

R.S.O. 1980,  
c. 31

Notice of  
appeal to  
county judge

(15) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court and a copy thereof to the municipal clerk, within ten days of the mailing of the notice under subsection (12).

Appeals to  
O.M.B.

(16) An appeal may be had to the Municipal Board from a decision of the county judge under subsection (14) and the provisions of section 47 of the *Assessment Act* apply with necessary modifications. 1972, c. 124, s. 25, *part*.

(17) Neither the council nor the Assessment Review Court shall deal with a recommendation under this section if a certificate with respect to current taxes has been issued by the tax collector under this Act before the mailing of the notice of recommendation under subsection (4). 1972, c. 124, s. 25, *part*; 1973, c. 175, s. 10 (6).

When  
application  
not to be  
dealt with

(18) A copy of each notice of decision referred to in subsections (6) and (12) shall be sent by mail to the assessment commissioner by the clerk of the municipality or the regional registrar of the Assessment Review Court, as the case may be, at the same time as the notice of decision is given under subsections (6) and (12), provided that failure to send such copy to the assessment commissioner shall not invalidate any proceedings taken under this section. 1973, c. 175, s. 10 (7).

Notice of  
decision to  
assessment  
commis-  
sioner

**498.**—(1) Where the Government of Canada desires to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, or to provide payment for specific municipal services rendered to such a tenant or user or to Her Majesty, a municipality may agree to accept and may accept from the Government of Canada an amount of money in lieu of taxes on such tenant or user or payment for such specific municipal services that would otherwise be payable.

Payment  
in lieu of  
taxes by  
Government  
of Canada

(2) The specific municipal services referred to in subsection (1) do not include the provision of any right to attend elementary or secondary schools.

Municipal  
services

(3) Where a municipality has agreed to accept and has accepted such payment, as provided for in subsection (1), the municipality shall not collect any taxes on or in respect of any person who uses land with respect to which such payment is made.

Taxes not  
to be levied

(4) Where moneys are received by a municipality under subsection (1) to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, the amount thereof which, if the taxes had been levied in the usual way, would have been paid to any body for which the council is required by law to levy rates or raise money shall be paid over to such body.

Distribution  
of money

Idem

(5) The money received by a municipality under subsection (1) other than the money paid over to other bodies under subsection (4) shall be credited to the general fund of the municipality. R.S.O. 1970, c. 284, s. 637.

Computation  
of time for  
proceedings  
where time  
limited  
expires on  
Saturday

**499.** Where the municipal offices in a municipality are closed on Saturday and the time limited for any proceeding or for the doing of any thing in such municipal offices under this Part expires or falls upon a Saturday, the time so limited shall extend to and the thing may be done on the day next following that is not a holiday. R.S.O. 1970, c. 284, s. 638.

## PART XXIII

### MISCELLANEOUS

Forms

**500.** Where the forms therefor are not prescribed by this Act, the Ministry may prescribe forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form is prescribed by this Act or the Ministry and that is not calculated to mislead is not open to objection on the ground that it is not in accordance with the form so prescribed. R.S.O. 1970, c. 284, s. 639; 1972, c. 1, s. 1.

English and  
French  
language  
forms

**501.—**(1) The Minister may, by order, prescribe an English and French language version of any form prescribed by or under this Act.

By-laws  
providing  
for use  
of forms

(2) The council of a municipality may, by by-law, provide for the use in the municipality of the version of the form prescribed by the Minister under subsection (1) in place of the corresponding form prescribed by or under this Act; and, notwithstanding any other provision in this Act, where a by-law under this subsection is in force in a municipality the version of the forms provided for in the by-law shall be used in the municipality in place of the corresponding forms prescribed by or under this Act. 1979, c. 63, s. 15.

Repeal of  
s. 210, par. 152

**502.—**(1) Paragraph 152 of section 210 is repealed on a day to be named by proclamation of the Lieutenant Governor. R.S.O. 1970, c. 284, s. 640.

Repeal of  
s. 229

(2) Section 229 is repealed on the 1st day of January, 1983. 1980, c. 74, ss. 12, 27 (2).



FORM 1

(Section 96 (1) )

I, ....., having been elected to the office of.....  
in the municipality of.....do swear that I will be faithful  
and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning  
sovereign for the time being*).

Sworn before me at the.....  
of.....  
in the.....of.....  
this.....day of.....,  
19....

R.S.O. 1970, c. 284, Form 2.

FORM 2

(Section 50)

CERTIFICATE OF CLERK AS TO ELECTION OF REEVE  
AND DEPUTY REEVE (IF ANY)

I, *A.B.*, of....., Clerk of the Corporation of.....  
in the County of....., do hereby certify under my hand and the  
seal of the Corporation that *X.Y.* was duly elected reeve (*or deputy reeve*)  
of the town (township *or village, as the case may be*), and has made and  
subscribed the declaration of office and qualification as such reeve (*or deputy  
reeve*).

*A.B.*

R.S.O. 1970, c. 284, Form 19.

FORM 3

(Section 96 (1) )

I,.....  
do solemnly promise and declare that I will truly, faithfully and impartially,  
to the best of my knowledge and ability, execute the office of.....  
to which I have been elected in this municipality, that I have not received  
and will not receive any payment or reward, or promise thereof, for the  
exercise of any partiality or malversation or other undue execution of such  
office, and that I will disclose any pecuniary interest, direct or indirect as  
required by and in accordance with the *Municipal Conflict of Interest  
Act*, and I make this solemn declaration conscientiously believing it  
to be true and knowing that it is of the same force and effect as if made  
under oath.

1973, c. 83, s. 12.

## FORM 4

(Section 96 (2) )

## DECLARATION OF APPOINTED OFFICE

I, .....  
do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*insert name of office, or offices in the case of a person who has been appointed to two or more offices that he may lawfully hold at the same time*), that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the offices to which I have been appointed in this municipality, that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of such office (*or offices*), and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the corporation except that arising out of my office as clerk (*or my office as treasurer, collector, etc., as the case may be*).

R.S.O. 1970, c. 284, Form 21.

## FORM 5

(Section 96 (3) )

## DECLARATION OF AUDITOR

I, .....  
having been appointed auditor for the municipal corporation of .....  
promise and declare that I will faithfully perform the duties of that office according to the best of my judgment and ability; and I do solemnly declare that I had not, directly or indirectly, any share or interest in any contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor or other than for services within my professional capacity.

R.S.O. 1970, c. 284, Form 23.

## FORM 6

(Section 137 (1) )

## NOTICE ON PROMULGATION OF BY-LAW

The above is a true copy of a by-law passed by the Municipal Council  
of ..... of .....

on the ..... day of ....., 19....  
And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed must make his application for that purpose to the Supreme Court, within three months next after the first publication of this notice in the newspaper called the .....  
....., or he will be too late to be heard in that behalf.

R.S.O. 1970, c. 284, Form 28.

FORM 7

(Section 394 (3))

FORM OF OATH TO BE ATTACHED TO COLLECTOR'S ROLL

I, *(name and residence)*, make oath and say *(or solemnly declare and affirm)* as follows:

In accordance with the *Municipal Act*, I have appended my initials in the collector's roll attached hereto to every date entered by me in the roll as the date of demand of payment, or notice of taxes, pursuant to section 379 *(or section 386)* and of every transmission of statement and demand of taxes pursuant to section 382, or have attached my certificate pursuant to section 383, and every such date has been truly stated in the roll or certificate.

R.S.O. 1970, c. 284, Form 29.

FORM 8

(Section 408 (3))

CERTIFICATE OF TREASURER

Treasurer's Office of the County *(or City or Town or Township)* of  
.....

Statement showing arrears of taxes upon the following lands in the  
Township *or City, or Town* of.....

Lot	Concession or Street	Quantity of Land	Amount	Year

I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 397 of the *Municipal Act* has been made for the year 19....

.....  
*Treasurer.*

R.S.O. 1970, c. 284, Form 30.

## FORM 9

(Section 445 (1))

## TAX DEED

*To all to whom these presents shall come:*

We, ..... of the .....  
 of....., Esquire, Warden (or Mayor, or Reeve), and  
 .....of the .....  
 of....., esquire, Treasurer of the County (or City or Town  
 or Township) of....., Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden (or Mayor or Reeve) and seal of the said County (or City or Town or Township), bearing date the.....day of....., 19.... commanding the Treasurer of the County (or City or Town or Township) to levy upon the land hereinafter mentioned for the arrears of taxes due thereon, with his costs, the Treasurer of the County (or City or Town or Township did, on the.....day of....., 19...., sell by public auction to....., of the..... of....., in the County of....., that certain parcel or tract of land and premises hereinafter mentioned, at and for the price or sum of.....of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon up to the..... day of....., 19...., together with the costs:

Now know ye, that we, .....  
 and.....as Warden (or Mayor or Reeve) and Treasurer of the said County (or City or Town or Township) in pursuance of such sale, and of the *Municipal Act*, and for the consideration aforesaid, do hereby grant, bargain and sell unto..... his heirs and assigns, all that certain parcel or tract of land and premises containing.....being composed of (*describe the land so that it may be readily identified*).

In witness whereof, we the Warden (or Mayor or Reeve) and Treasurer of the County (or City or Town or Township) have hereunto set our hands and affixed the seal of the County (or City or Town or Township), this .....day of....., 19....; and the Clerk of the County (or City or Town or Township) Council has countersigned.

A.B., Warden (or Mayor or Reeve), (*Corporate Seal*)

C.D., Treasurer

Countersigned,

E.F., Clerk.



## CHAPTER 303

### Municipal Affairs Act

#### PART I

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Deputy Minister" means the Deputy Minister of Intergovernmental Affairs;
- (c) "local board" means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;
- (d) "Minister" means the Minister of Intergovernmental Affairs;
- (e) "Ministry" means the Ministry of Intergovernmental Affairs;
- (f) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (g) "public utility" means a waterworks, gasworks, including works for the transmission, distribution, and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, a telephone system, a street or other railway system, a bus or other public transportation system or any

other works or system for supplying the inhabitants generally with necessities or conveniences that are vested in or owned, controlled or operated by a municipality or municipalities or by a local board;

- (h) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 118, s. 1; 1972, c. 1, s. 104 (2-4), *revised*.

## PART II

Regulations **2.** The Lieutenant Governor in Council may make regulations,

- (a) governing the exercise by the Ministry of the powers conferred on the Ministry by clause 3 (j);
- (b) prescribing the fees payable for licences under clause 3 (j). R.S.O. 1970, c. 118, s. 8; 1972, c. 1, s. 1.

Powers of  
Ministry re:

**3.** The Ministry may,

municipal  
accounting

- (a) prescribe and regulate the system of estimates, bookkeeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for;

municipal  
returns

- (b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Ministry, annually, periodically or otherwise, and the times when and by whom they shall be made;

municipal  
audit

- (c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties;

- (d) collect, compile, analyze and record such statistical <sup>compiling statistics, etc.</sup> and other information relating to the financial and other affairs of municipalities as may be useful;
- (e) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of disseminating information and advice in relation to municipal affairs as may be useful;
- (f) study, report and advise upon the system of <sup>report on municipal government, etc.</sup> municipal institutions and the government and administration of municipal affairs or upon the government and administration of municipal affairs in any municipality or municipalities;
- (g) perform and do all things necessary or incidental <sup>incidental powers</sup> to any of the aforesaid purposes;
- (h) effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;
- (i) inquire at any time into any or all of the affairs, <sup>powers of investigation</sup> financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as appear necessary or expedient in the interests of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations;
- (j) grant upon payment of the prescribed fee a licence <sup>licensing municipal auditors</sup> to every person whom the Ministry considers qualified to perform the duties of a municipal auditor and refuse, suspend or revoke any such licence. R.S.O. 1970, c. 118, s. 9; 1972, c. 1, s. 1.

4. The Ministry may, with respect to any of the matters <sup>Variations in systems and forms</sup> mentioned in clauses 3 (a), (b) and (c), prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. R.S.O. 1970, c. 118, s. 10; 1972, c. 1, s. 1.

Notification  
of provincial  
grants

5.—(1) The Ministry may require each municipality in each year to notify every person whose name appears on its collector's roll, in such manner, form and detail as the Ministry may require, of all payments estimated to be made by the Province in that year to the municipality and its local boards, including in such estimated payments the amounts, computed in such manner as the Ministry may require, by which the municipality and any of its local boards benefit by reason of payments by the Province to a metropolitan, regional or district municipality or a county, or a local board thereof, or to a local board that functions in more than one municipality, and the Ministry may require the inclusion in the notice of such other information relative to provincial grants and municipal tax levies as it considers advisable.

Withholding  
of grants

(2) Where a municipality fails to comply with any requirement under this section, the Treasurer may withhold any moneys payable to the municipality or any local board thereof until the municipality has complied with such requirement. R.S.O. 1970, c. 118, s. 11; 1972, c. 1, s. 1.

Powers re  
assessment  
rolls, tax  
collection  
procedures,  
etc.

6. The Ministry may in respect of any municipality or class thereof, notwithstanding any other Act,

- (a) prescribe the form of assessment returns, assessment rolls or collector's rolls and the particulars to be set down therein, or combine or vary them from time to time;
- (b) order that the tax arrears procedures of this Act shall apply and that the tax sale procedures of the *Municipal Act* and the *Education Act* shall not apply, and in such case the use or disposition of land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Ministry, which approval shall be granted if the Ministry is satisfied that the municipality has complied with the provisions of this Act. R.S.O. 1970, c. 118, s. 12; 1972, c. 1, s. 1; 1974, c. 111, s. 1.

R.S.O. 1980,  
cc. 302, 129

Duty of  
members of  
council, local  
boards and  
their officers

7. Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local boards of which such municipality or local board is one. R.S.O. 1970, c. 118, s. 13.



**8.** A municipality that has adopted a system of estimates, bookkeeping, accounting or auditing that the Ministry is satisfied to approve may continue such system until otherwise directed by the Ministry, and until such time it is not necessary for the municipality to comply with any system prescribed under this Part. R.S.O. 1970, c. 118, s. 14; 1972, c. 1, s. 1.

Adoption of other satisfactory system of accounting, auditing, etc.

**9.—(1)** The Ministry, upon its own initiative or when ever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than fifty ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

Provincial municipal audit

(2) Any direction given by the Ministry may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or to any specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Ministry. R.S.O. 1970, c. 118, s. 16; 1972, c. 1, s. 1.

Extent of audit

**10.** The Ministry upon its own initiative may make an inquiry into any of the affairs of a municipality. R.S.O. 1970, c. 118, s. 17; 1972, c. 1, s. 1.

General inquiry

**11.** An audit directed to be made under this Part may be made by any officer of the Ministry, or by a competent auditor appointed by the Minister, and the officer and person so appointed for the purposes of such audit have all the powers mentioned in section 12. R.S.O. 1970, c. 118, s. 18; 1972, c. 1, s. 1.

Appointment of auditor

**12.** For the purposes of any audit, the officer of the Ministry or other person appointed to make the audit may require the production of all or any books, records and documents that may in any way relate to the affairs of the municipality that are the subject of the audit, and inspect, examine and audit and copy them, and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs, and for such purpose has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such audit as if it were an inquiry under that Act. R.S.O. 1970, c. 118, s. 19; 1971, c. 49, s. 18; 1972, c. 1, s. 1.

Powers of auditor

R.S.O. 1980, c. 411

Report on  
audit

**13.** Upon completion of an audit under this Part, the auditor shall report thereon in writing to the Deputy Minister, who shall forthwith transmit a copy of the report to the municipality. R.S.O. 1970, c. 118, s. 20.

Powers of  
Ministry  
as a result of  
an audit  
or inquiry

**14.** The Ministry, as a result of an audit of the affairs of a municipality made under this Part, or as a result of an investigation or inquiry made under any general or special Act, may make such orders as it sees fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit, investigation or inquiry has disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Ministry may provide. R.S.O. 1970, c. 118, s. 21; 1972, c. 1, s. 1.

Fees for  
audit

**15.** The Ministry may fix the fees and allowances for expenses payable with respect to any audit of the affairs of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. R.S.O. 1970, c. 118, s. 22; 1972, c. 1, s. 1.

Exception  
as to  
municipal  
hydro-  
electric  
commissions

**16.** Nothing in this Part gives to the Ministry any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon Ontario Hydro. R.S.O. 1970, c. 118, s. 23; 1972, c. 1, s. 1; 1973, c. 57, s. 19.

Obligations  
of officers'  
sureties not  
affected, etc.

**17.** Nothing in this Part affects or impairs any security given by an officer of a municipality for the due and faithful performance of the duties of his office, or relieves his sureties from liability in case of his default therein, or relieves any municipality from its duty to appoint competent auditors. R.S.O. 1970, c. 118, s. 24.

Power to  
obtain  
returns on  
failure of  
municipality  
to make  
them

**18.** Where a municipality fails, neglects or refuses to make or provide to the Ministry any form, return, statement or information prescribed or ordered made under this Part, the Deputy Minister may authorize some person to make and furnish it at the expense of the municipality. R.S.O. 1970, c. 118, s. 25; 1972, c. 1, s. 1.

Offence

**19.** Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any wilful breach of any of the provisions of this Part or of any

order of the Ministry made thereunder is guilty of an offence and on conviction, in addition to any other penalty provided by law, is liable to a fine of not less than \$20 and not more than \$200 and, if a member of a council or a local board, is, upon conviction, disqualified from holding any municipal office for a period of two years. R.S.O. 1970, c. 118, s. 26; 1972, c. 1, s. 1.

### PART III

#### SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES

##### 20. In this Part,

Interpre-  
tation

- (a) "improved land" means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (b) "land registry office" means the land registry office of the registry or land titles division for the county or district in which a municipality subject to this Part is situate;
- (c) "registrar" means the registrar of a land registry office;
- (d) "sheriff's office" means the office of the sheriff for the county or district in which a municipality subject to this Part is situate;
- (e) "vacant land" means a parcel of land separately assessed that has no building thereon, but does not include any improved land. R.S.O. 1970, c. 118, s. 27, *revised*.

21.—(1) The Board has and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Ministry or of a municipality expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than 20 per cent of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality,

Special  
municipal  
jurisdiction  
of Board

- (a) has failed to meet and pay any of its debentures or interest thereon when due and after payment thereof has been duly demanded;
- (b) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or
- (c) has or may become financially involved or embarrassed so that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures.

Partial or  
full inquiry

(2) In the course of an inquiry, the Board may investigate any or all of the affairs of a municipality.

Separate  
school  
board

(3) The Board may exercise such powers with respect to any separate school board of any municipality that has not been made subject to this Part, upon request expressed by resolution of the school board. R.S.O. 1970, c. 118, s. 28; 1972, c. 1, s. 1.

Power of  
Board to  
vest control  
over  
municipal  
adminis-  
tration in  
Ministry

**22.**—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it considers proper or necessary to vest in the Ministry control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board otherwise determines and orders such municipality is subject to this Part.

Deputy  
Minister  
not to sit  
as member  
of board

(2) During such time as the Deputy Minister is a member of the Board, he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. R.S.O. 1970, c. 118, s. 29; 1972, c. 1, s. 1.

Powers of  
Ministry

**23.**—(1) Except as otherwise provided in this Part, the Ministry has and may exercise the powers conferred on it by this Part and such additional powers as by any order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers.



(2) The jurisdiction and powers to be exercised under this Part by the Ministry extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of the municipality, unless an order made by the Board otherwise expressly declares and directs. R.S.O. 1970, c. 118, s. 30; 1972, c. 1, s. 1.

Declaration  
as to juris-  
diction of  
Ministry

24. The council or a local board or any creditor dissatisfied with any order of the Ministry may within five days after the order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct it to be disposed of by the Board. R.S.O. 1970, c. 118, s. 31; 1972, c. 1, s. 1.

Appeals from  
orders of  
Ministry

25. Where a municipality has become subject to this Part, notice thereof shall be given in *The Ontario Gazette* and in such one or more newspapers, published in or near the municipality and elsewhere, and to such persons and in such form as the Board may direct. R.S.O. 1970, c. 118, s. 32.

Notice to  
be given of  
municipality  
subject to  
this Part

26.—(1) When notice has been published in *The Ontario Gazette* that a municipality is subject to this Part, such publication operates as a stay of all actions or proceedings pending against the municipality and as a stay of execution, as the case may be, and thereafter, without leave of the Board, no action or other proceedings against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality.

Stay of  
actions  
against  
municipality  
without  
leave of  
Board

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained, but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall, upon the removal of the prevention or stay, have the same length of time within which to take action or proceeding or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation, but this subsection does not apply unless application is made to the Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused.

Suspension  
of operation  
of statutes of  
limitation

Where order  
made under  
s. 29 (1) (b, j)

(3) Subsection (1) does not apply to a municipality that is subject to this Part after the Board has made an order under clause 29 (1) (b) or (j) with respect to the municipality. R.S.O. 1970, c. 118, s. 33.

Existing  
liens not  
taken away

**27.** Nothing in this Part takes away any lien, hypothec or other charge, if any, in existence and subsisting on the 18th day of April, 1953, with respect to any municipality upon or against any revenue or other asset of the municipality and it continues to exist until it is satisfied and discharged. R.S.O. 1970, c. 118, s. 34.

Control  
exercisable  
by Ministry

**28.** The Ministry with respect to the municipality and every local board thereof has control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,

municipal  
officers

(a) the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remuneration;

revenues and  
expenditures

(b) the collection, receipt, application and payment of its revenues and expenditures;

sinking  
funds

(c) the keeping, investment, use, application, payment and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund;

accounting  
and audit

(d) the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures;

estimates

(e) the yearly or other estimates and the form, preparation and completion thereof, and the times when they shall be made;

what  
estimates  
shall include

(f) the amounts to be provided for and included in the yearly or other estimates, whether they are to be provided by taxation or otherwise;

rates and  
collection  
thereof

(g) the imposition, rating, levying and collection of all rates, assessments and taxation, the mode and times for collecting them and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll;

borrowings

(h) the borrowing of moneys for the current expenditures of the corporation until the taxes are collected;

- (i) subject to the *Power Corporation Act*, the rates, utility rates  
rents and charges imposed, levied or collectable for R.S.O. 1980,  
supply or service of any public utility; c. 384
- (j) the imposition, charging and collection of all licence, licence and  
permit or other fees, charges and expenses; permit fees
- (k) the sale or other disposition of any of its assets; sale of  
and assets
- (l) without being limited by the foregoing, generally general  
with respect to any matter in any way affecting or  
pertaining to its affairs and their administration.  
R.S.O. 1970, c. 118, s. 35; 1972, c. 1, s. 1; 1973, c. 57,  
s. 19.

**29.—**(1) Where a municipality has become subject to Powers of  
this Part, the Board, with respect to the debenture debt and Board with  
debentures of the municipality and interest thereon and with respect to  
respect to any other indebtedness thereof, has power to debt  
authorize or direct,

- (a) the consolidation of the whole or any portion thereof;
- (b) the issue, on such terms and conditions, in such  
manner and at such times as the Board may approve,  
of debentures, certificates or other evidences of  
indebtedness, in substitution and exchange for any  
outstanding debentures or in payment and satis-  
faction of the whole or any portion of such other  
indebtedness, and compulsory acceptance of such  
debentures, certificates or other evidences of indebted-  
ness in payment and satisfaction of such out-  
standing debentures or other indebtedness;
- (c) the issue of new debentures to cover any such  
consolidation;
- (d) the retirement and cancellation of the whole or any  
portion of the existing debenture debt and out-  
standing debentures, upon the issue of new debentures  
to cover them or in exchange therefor;
- (e) the terms, conditions, places and times for exchange  
of new debentures for outstanding debentures;
- (f) the postponement of or variation in the terms,  
times and places for payment of the whole or any  
portion of the debenture debt and outstanding  
debentures and other indebtedness and interest  
thereon and variation in the rates of such interest;

- (g) the cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;
- (h) the creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures or other indebtedness or any portion thereof or interest thereon;
- (i) the custody, management, investment and application of sinking funds, reserves and surpluses;
- (j) the ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;
- (k) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section;
- (l) an interim plan, pending a final order or plan with respect thereto, which may cancel all or any portion of interest in arrear and may alter, modify or compromise the rights of debenture holders or other creditors during any period of time between the date of default and the end of the fifth year following the date of the order of the Board.

**Limitation**

(2) The Board shall not make any order under clause (1) (l) unless creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of such order.

**Powers of Board with respect to debt**

(3) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of such municipality and interest thereon and with respect to any other indebtedness thereof, may,



- (a) authorize or direct any municipality, whether or not it has become subject to this Part, to continue to guarantee any such debentures notwithstanding any postponement or variation in the terms, provisions and time of payment thereof, and to guarantee any new debentures issued in substitution and exchange therefor;
- (b) authorize or direct any municipality, whether or not it has become subject to this Part, to assume and pay by the issue of debentures or otherwise a share of any liability in respect of which such municipality may be jointly or jointly and severally liable with any other municipality, which share may be either in full satisfaction of such liability of such municipality or on account thereof, and, if on account, the Board may order that provision be made for further payment in respect thereof;
- (c) summon and enforce the attendance of such persons as the Board thinks fit to summon,

and the Board shall direct that reasonable notice be given of any application under this subsection to every person whose interests it considers to be directly affected thereby and every order made under this subsection is binding upon every such person. R.S.O. 1970, c. 118, s. 36.

**30.** The Board, upon the application of the separate school board of a municipality that has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, has power to make orders under and in accordance with the provisions of section 29 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. R.S.O. 1970, c. 118, s. 37.

**31.**—(1) Where the Board, upon application to it by the Ministry or the council or a separate school board or any of the creditors of the municipality, intends to exercise any of the powers conferred on the Board under subsection 29 (1) or section 30, it shall, before so doing, give or direct that there be given notice of such intention in *The Ontario Gazette* and by such other publication and to such persons and in such manner as the Board considers proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than two months after the notice is published in *The Ontario Gazette*.

Subs. (1)  
does not  
apply to  
incidental  
matters

(2) Subsection (1) does not apply with respect to any matter that is merely incidental to the exercise of any such powers.

Objection  
to be filed  
with Board

(3) The Board shall not make any order under subsection 29 (1) if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board, including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable.

Approval by  
creditors

(4) If creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of any order of the Board under subsection 29 (1), it is not necessary that two months elapse as required under subsection (1).

When matter  
to be varied

(5) When a matter is being dealt with by the Board under this section and the Board intends to vary the terms thereof, it shall, before so doing, give or direct that there be given notice of such intention to such persons and in such manner as the Board considers proper, and such notice shall state the time and place when such variation is to be dealt with by the Board, which time shall not be less than two weeks after the notice. R.S.O. 1970, c. 118, s. 38; 1972, c. 1, s. 1.

Debenture  
debt not to  
form part of  
debt after  
order of  
Board

**32.** After an order of the Board has been made under section 29, no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired or exchanged forms part of its debt within the meaning of any Act limiting its borrowing powers. R.S.O. 1970, c. 118, s. 39.

Variation or  
cancellation  
of subsisting  
agreements

**33.** The municipality may, with the approval of the Ministry, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. R.S.O. 1970, c. 118, s. 40; 1972, c. 1, s. 1.

**34.**—(1) Without the approval of the Ministry first being obtained, the municipality shall not, under any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation.

Ministry  
to approve  
debenture  
issues

(2) The municipality may, with the approval of the Ministry, pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law has any force and effect until approved by the Ministry. R.S.O. 1970, c. 118, s. 41; 1972, c. 1, s. 1.

Approval of  
debenture  
by-laws

**35.** It is not necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Ministry. R.S.O. 1970, c. 118, s. 42; 1972, c. 1, s. 1.

Assent of  
electors not  
requisite

**36.** The Ministry has full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank, the Province of Ontario Savings Office or a loan or trust company registered under the *Loan and Trust Corporations Act* to be designated by the municipality, and when so deposited shall only be applied, used, transferred and withdrawn for such purpose, in such manner and at such time or times as the Ministry may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and in such manner as the Ministry may authorize, and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than as directed by the Ministry. R.S.O. 1970, c. 118, s. 43; 1972, c. 1, s. 1.

Ministry  
to have  
control over  
moneys and  
their  
application

R.S.O. 1980,  
c. 249

**37.**—(1) Notwithstanding any general or special Act or any by-law of the municipality, only such rates, assessments or amounts shall be imposed, rated, levied or directed so to be upon the rateable property in the municipality or upon any part thereof as the Ministry approves or directs.

Approval of  
Ministry  
necessary  
to levy rate

(2) Nothing in this Part relieves a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money

County rates  
to be  
provided as  
Ministry  
may direct

borrowed by it upon debentures or otherwise until payment is made, and the payment of such amounts with interest shall be made as and when the Ministry may direct. R.S.O. 1970, c. 118, s. 44; 1972, c. 1, s. 1.

Settlement  
of county  
rates

**38.** The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality that is subject to this Part an amount less than the whole amount thereof. R.S.O. 1970, c. 118, s. 45.

Return of  
collector's  
roll

**39.** The collector shall return his roll to the treasurer on or before such day as the Ministry may direct. R.S.O. 1970, c. 118, s. 46; 1972, c. 1, s. 1.

Vesting of  
vacant lands  
in arrear  
for taxes

**40.—(1)** Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection (8).

Vesting of  
improved  
lands in  
arrear for  
taxes

**(2)** Where any part of the taxes on improved land in the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection (8).

Registration  
of tax arrears  
certificate

**(3)** The treasurer, with respect to vacant land upon which any part of the taxes remains unpaid after the time mentioned in subsection (1) and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection (2), may register in the land registry office a certificate signed by him to be known as a tax arrears certificate in Form 1, setting forth therein a description of the vacant land or improved land, as the case may be, and the amount of all unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate vests in and becomes the property of the municipality, its successors and assigns, in fee simple, clear of and free from all other estate, right, title or interest, subject only to the right of redemption hereinafter provided and to subsections (8), (10) and (11). R.S.O. 1970, c. 118, s. 47 (1-3).



(4) Within ninety days after registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the land registry office for the registry or land titles division and the sheriff's office to have an interest therein a written notice in Form 2 of the registration of such certificate and of the last day for redemption of the land and, at the expiry of such period of redemption, the municipality may sell or convey the land or by by-law declare the land to be required for municipal purposes without further notice to any such party. R.S.O. 1970, c. 118, s. 47 (4); 1974, c. 111, s. 2.

Notice of  
registration  
certificate

(5) Where a notice has been sent under subsection (4) to a corporation, the treasurer shall, within the time limit in subsection (4), send by registered mail to the Public Trustee a copy of the notice so sent.

Copy of  
notice to  
Public  
Trustee

(6) The treasurer, forthwith after he has sent the notice as required by subsection (4), shall make and register in the land registry office a statutory declaration describing the land to which it relates and setting forth the names and addresses of all persons to whom he has sent the notice and the date of sending the same to each person, and a specimen copy of the notice shall be attached to the declaration as an exhibit.

Registration  
of declara-  
tion as to  
sending of  
notices

(7) The statutory declaration shall for the purposes of registration be deemed to be an instrument which within the meaning of the *Registry Act* may be registered, and it is not necessary for its registration that the declaration be accompanied by any proof of execution other than that attested in the declaration. R.S.O. 1970, c. 118, s. 47 (5-7).

Declaration  
deemed an  
instrument  
R.S.O. 1980,  
c. 445

(8) Where the Crown, whether as represented by the Government of Canada or the Government of Ontario, has any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein is vested in the municipality by the registration of a tax arrears certificate, and, where such interest is that of a lessee, licensee or locatee, the vesting is valid without requiring the consent of the Minister of Natural Resources. R.S.O. 1970, c. 118, s. 47 (8); 1972, c. 4, s. 12.

Interest of  
Crown not  
affected

(9) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Ministry, and any such authority may be general or special in its terms and shall not be required to be registered or referred to in any certificate that is registered. R.S.O. 1970, c. 118, s. 47 (9); 1972, c. 1, s. 1.

Ministry  
to approve  
registration

**Easements**

(10) Where a tax arrears certificate is registered with respect to a dominant tenement, the easements appurtenant thereto are vested in and become the property of the municipality, and, where a tax arrears certificate is registered with respect to a servient tenement, the registration does not affect any easement to which it is subject.

**Restrictive covenant**

(11) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of subsection (10). R.S.O. 1970, c. 118, s. 47 (10, 11).

**Insurance, repairs**

**41.** Where land is vested in a municipality under section 40, the treasurer of the municipality may make any expenditure necessary,

(a) to insure the land; or

(b) to keep the land in a proper state of repair, if he has sent by registered mail at least one month before making the expenditure a notice containing particulars of the proposed expenditure and an estimate of the cost thereof to the last known address of the assessed owner of the land and to all persons appearing by the records of the land registry office and the sheriff's office to have an interest therein,

R.S.O. 1980,  
c. 302

and the amount of such expenditure, with interest as provided in section 412 of the *Municipal Act*, may be added to the amount required to redeem the land. R.S.O. 1970, c. 118, s. 48.

**Right of redemption**

**42.—(1)** The owner or assessed owner of or any person appearing by the records of the land registry office for the registry or land titles division or the sheriff's office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the land at any time within one year after the date of registration of the certificate by paying to the municipality the amount set forth in the certificate in respect of the land to be redeemed with interest thereon to the day of redemption, together with the amount of all expenses incurred by the municipality and the treasurer in registering the certificates and for searches and postage and \$1 for each certificate and for each notice sent under subsection 40 (4), and also by paying to the municipality all taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and had been liable for ordinary taxation, and, if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are

payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed, and the local improvement rates shall be computed at the rate fixed in the by-law by which they were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land is final and conclusive.

(2) Where land is redeemed under this section, the treasurer shall forthwith register in the land registry office a certificate signed by him, to be known as a redemption certificate in Form 3, setting forth therein a description of the land redeemed, and a redemption certificate, when registered, is a valid and effectual cancellation of the tax arrears certificate registered with respect of the land, and, subject to subsection (3), the land thereupon vests in and becomes the property of the persons who would be entitled thereto if the tax arrears certificate had not been registered, according to their respective rights and interests. R.S.O. 1970, c. 118, s. 49 (1, 2).

Registration  
of  
redemption  
certificate

(3) If land is redeemed by any person entitled to redeem the land other than the owner, such person has a lien thereon for the amount paid to redeem the land and the lien has priority over the interest in the land of any other person to whom notice was sent under subsection 40 (4). 1980, c. 66, s. 1.

Lien on  
redemption  
by other  
than owner

**43.**—(1) Every certificate registered under section 40, 42 or 45 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under the *Registry Act*.

Duty of  
registrar

R.S.O. 1980,  
c. 445

(2) Upon the written request of the treasurer of a municipality for the purposes mentioned in section 40, the sheriff shall, in respect of the land described and the persons named in the request, furnish to the treasurer a certificate showing the names and addresses of all persons, if any, appearing by the records of his office to have an interest in such land, and for the certificate the sheriff is entitled to a fee of 75 cents for each lot embraced in the request.

Certificate  
of sheriff

(3) No tax is payable under the *Land Transfer Tax Act* on registration of any tax arrears or redemption certificate or vacating certificate.

Land  
transfer tax  
not payable  
R.S.O. 1980,  
c. 231

(4) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. R.S.O. 1970, c. 118, s. 50.

What lands  
certificate  
may embrace

Where lands  
in land  
registry  
office for  
land titles  
division

R.S.O. 1980,  
c. 230

Vacating  
certificates  
1932, c. 27  
1935, c. 16

Cancellation  
of plans

R.S.O. 1980,  
c. 445

Application  
to City of  
Windsor  
1932, c. 95

Redemption  
certificate  
of  
conveyance

**44.** Where land to which section 40 applies is registered in a land registry office for a land titles division, the certificates and declarations that may be registered under any provision of this Part shall be registered in that land registry office, and all the provisions of this Part in relation to such certificates and declarations and their registration apply with necessary modifications to land registered in a land registry office for a land titles division, and the *Land Titles Act* shall be deemed to permit such registrations. R.S.O. 1970, c. 118, s. 51, *revised*.

**45.**—(1) Where under this Part, Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935*, a tax arrears certificate has been registered with respect to any land and it is subsequently ascertained that it was registered by mistake or that lands have erroneously been included therein, or where the treasurer has failed to comply with subsection 40 (4) or (5), or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 49, the Ministry may direct the treasurer of the corporation to register a certificate signed by him, to be known as a vacating certificate in Form 4, setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate, when registered, is as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the estate of such registered owner at the time of the registration of the tax arrears certificate, but the registration of any vacating certificate does not in any way cancel or affect taxes or arrears of taxes, if any, that may be due upon the land described therein. R.S.O. 1970, c. 118, s. 52 (1); 1972, c. 1, s. 1; 1972, c. 46, s. 1.

(2) The Ministry may require the council of a municipality that is subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 82 of the *Registry Act*.

(3) This section applies to lands acquired by The Corporation of the City of Windsor under section 3 of *The City of Windsor Act, 1932*. R.S.O. 1970, c. 118, s. 52 (2, 3); 1972, c. 1, s. 1.

**46.** Notwithstanding the other provisions of this Act or any other Act, where land in respect of which a tax arrears certificate has been registered has become vested in the municipality and the period for redemption set out in section 42 has expired and where



the land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, the Ministry, on the application of any person to whom notice was sent under subsection 40 (4), shall direct the treasurer of the municipality, upon payment by the applicant of the full amount that would have been payable in respect of taxes, interest and penalties had the land not become vested in the municipality, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such vesting, to either,

- (a) register in the land registry office a redemption certificate in respect of the land in Form 3; or
- (b) convey the land to the applicant,

as the Ministry considers just in the circumstances, and where a redemption certificate is registered under clause (a), subsections 42 (2) and (3) apply with necessary modifications. 1980, c. 66, s. 2.

**47.** The proceeds derived from the sale or other disposition of lands that become the property of the municipality by virtue of section 40 shall be distributed in such manner and in such amounts as may be agreed upon, or, failing agreement, as the Ministry may direct, to the bodies that would have received the proceeds of taxes on such lands, if taxes had been collected in the usual way. R.S.O. 1970, c. 118, s. 54; 1972, c. 1, s. 1.

Proceeds of  
sale, etc.,  
to be  
distributed

**48.—**(1) The Ministry has the same right of appeal as any person assessed has under subsection 39 (2) of the *Assessment Act* with respect to the assessment roll of the municipality and, in addition, has the right of appeal conferred by this section.

Right of  
appeal of  
Ministry  
R.S.O. 1980,  
c. 31

(2) An appeal by the Ministry under this section may be made at any time within twenty days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any area of the municipality described in the notice of appeal or generally with respect to assessment of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice of appeal.

Idem

(3) The Ministry has the same right of appeal from any decision of the Assessment Review Court or county judge as a person assessed has under the *Assessment Act*.

Appeal from  
Assessment  
Review Court  
or judge

(4) Except as provided in subsection (2), in any appeal against a particular assessment by the Ministry the practice and procedure thereon shall be the same as in the case of an appeal by a person assessed.

Procedure

Practice and  
procedure in  
general  
appeal

(5) In any general appeal by the Ministry under this section, the practice and procedure shall be determined by the Assessment Review Court, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as is determined by the court, judge or Board, and, upon the hearing of any such general appeal, the court, judge or Board has jurisdiction to review any or all of the assessments included in the roll as is necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board.

Where  
revised roll  
inequitable,  
may be set  
aside

(6) When it appears to the Ministry that, by reason of the revision or alteration of an assessment roll in accordance with a decision or decisions of the Assessment Review Court, the county judge or the Board, the roll as so revised or altered is inequitable in respect of a substantial number of persons shown on the roll, the Ministry may order that the entire roll as revised or altered be set aside and direct a new assessment to be made by such person as it may designate.

Time for  
return of  
new  
assessment,  
appeals

R.S.O. 1980,  
c. 31

(7) Where the Ministry directs a new assessment to be made, it shall also fix the time for the return of the new assessment roll, and the same rights of appeal as apply under the *Assessment Act* with respect to the assessment roll set aside apply with respect to such new roll, except that the dates specified in that Act for the hearing and determination of such appeals shall be extended for a period corresponding to the period of time between the return of the roll set aside and the return of the new roll. R.S.O. 1970, c. 118, s. 55; 1972, c. 1, s. 1.

Compromise  
of tax  
arrears

**49.—**(1) The Ministry may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer, and in such compromise may provide for an extension of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof.

Lien for  
taxes not  
affected

(2) Where a compromise of tax arrears has been entered into under this section and an extension of the time of payment thereof agreed upon, such tax arrears are and remain a special lien upon the land in respect of which they are payable in priority over all claims, liens, privileges and

encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with respect thereto provided for in the *Assessment Act* continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. R.S.O. 1970, c. 118, s. 56; 1972, c. 1, s. 1.

R.S.O. 1980,  
c. 31

**50.** Any agreement entered into in accordance with this Part is binding upon and enures to the benefit of the parties thereto and all persons over whom the Legislature has legislative authority. R.S.O. 1970, c. 118, s. 57.

Effect of  
agreements

**51.** A housing commission may, with the approval of the Ministry, amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement that has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Ministry approves. R.S.O. 1970, c. 118, s. 58; 1972, c. 1, s. 1.

Power of  
housing  
commission  
to amend  
agreements

**52.** The jurisdiction and powers of a municipality that is subject to this Part exercisable under any general or special Act shall only be exercised in accordance with and subject to this Part and any order of the Ministry or the Board made, or agreement entered into thereunder. R.S.O. 1970, c. 118, s. 59; 1972, c. 1, s. 1.

Exercise of  
municipal  
jurisdiction  
subject to  
this Part

**53.**—(1) The Ministry or the Board has exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any person of any of the powers conferred by this Part, and such jurisdiction is not open to question or review in any action or proceeding or by any court.

Exclusive  
jurisdiction  
of Board and  
Ministry

(2) The Ministry or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same.

Review  
of orders,  
etc.

(3) Any order made or approval given by the Ministry or the Board under this Part, subject to the right of the Board or the Ministry to review and amend or revoke it, is final and conclusive and not open to question in any court.

Orders to  
be final



Board's  
jurisdiction

(4) The Board only has and may exercise exclusive jurisdiction to make any order under sections 21, 22, 29, 30, 31 and 60, and otherwise has jurisdiction only with respect to appeals to it under section 24.

Ministry's  
jurisdiction

(5) Except as provided by sections 21, 22, 24, 29, 30, 31 and 60, and by subsection (4), the Ministry only has and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. R.S.O. 1970, c. 118, s. 60; 1972, c. 1, s. 1.

Powers of  
Board and  
Ministry

**54.** The Ministry or the Board may make such orders and prescribe such forms from time to time as it considers necessary to carry out the provisions of this Part or any agreement made in pursuance thereof, and may make rules and regulations in respect of applications, matters and things under this Part. R.S.O. 1970, c. 118, s. 61; 1972, c. 1, s. 1.

Forms of  
certificates,  
notices, etc.

**55.** Every certificate, notice or other form that is in substantial conformity with the form thereof required by this Part, or prescribed by the Ministry or the Board, is not open to objection on the ground that it is not in the form required by this Part or prescribed by the Ministry or the Board. R.S.O. 1970, c. 118, s. 62; 1972, c. 1, s. 1.

Powers  
exercisable  
for and in  
name of  
municipality

**56.** Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Ministry under this Part in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. R.S.O. 1970, c. 118, s. 63; 1972, c. 1, s. 1.

Board and  
Ministry  
to have  
access to all  
books and  
records

**57.** The Board and the Ministry have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing all assessment rolls, collectors' rolls, by-laws, minute books, books of account, vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy them or any part thereof. R.S.O. 1970, c. 118, s. 64; 1972, c. 1, s. 1.

Powers to  
enforce  
orders

**58.—**(1) Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board or the Ministry, the Board or the Ministry may, upon such notice, if any, as it prescribes, do or order done all acts, deeds, matters and things necessary for com-



pliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.

(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants, shall comply with the orders, directions and decisions of the Board or the Ministry in any matter relating to the administration of the affairs of such municipality or local board, and any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto, is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence.

Liability of members of council and local boards for non-compliance with orders and directions

(3) If a municipality that is subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Ministry, the members of the council or local board who voted for such application are jointly and severally liable for the amount so applied, and it may be recovered in a court of competent jurisdiction, and such members are also disqualified from holding any municipal office for five years. R.S.O. 1970, c. 118, s. 65; 1972, c. 1, s. 1.

Personal liability and disqualification of members of council and local boards

**59.** The Ministry may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Ministry. R.S.O. 1970, c. 118, s. 66; 1972, c. 1, s. 1.

Dismissal of municipal officers

**60.** The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers that have not been approved by the Board or the Ministry, when such approval is required under this Part. R.S.O. 1970, c. 118, s. 67; 1972, c. 1, s. 1.

Injunction against exercise of municipal powers

**61.** The Ministry may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. R.S.O. 1970, c. 118, s. 68; 1972, s. 1, s. 1.

Ministry may combine municipal offices

**62.—(1)** The Ministry may direct payment of such fees or remuneration and travelling and other expenses reasonably incurred by the Ministry as it may determine.

Expenses of Ministry

Ministry's  
officer

(2) The Ministry may appoint some person, who may be an officer of the municipality, to exercise such powers and duties as the Ministry may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Ministry may determine.

Council may  
be heard  
as to  
salaries

(3) The Ministry, in determining the salaries to be paid to any person appointed by it under subsection (2), shall give consideration to such representations with respect thereto as the council may at any time make.

Salaries and  
expenses to  
be paid by  
municipality

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Ministry in carrying out the provisions of this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Ministry may direct. R.S.O. 1970, c. 118, s. 69; 1972, c. 1, s. 1.

Provisions  
of this Act  
to prevail

**63.** The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Ministry or municipality under this or any other Act, but, where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter prevails. R.S.O. 1970, c. 118, s. 70; 1972, c. 1, s. 1.

Board may  
end appli-  
cation of  
this Part

**64.—**(1) Where the Ministry is of opinion that the affairs of a municipality no longer require to be administered under this Part, the Board may make an order directing that on, from and after a date fixed thereby this Part shall no longer apply to the municipality, and on, from and after such date the Board and the Ministry shall cease to exercise jurisdiction and control over the municipality under this Part.

Tax arrears  
procedures

(2) Notwithstanding the provisions of subsection (1) or of an order made thereunder, where such order has been or is made, the tax arrears procedures of this Part continue to apply to the municipality in the same manner as if such order had not been made and the tax sale procedures of the *Municipal Act* do not apply, and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Ministry.

R.S.O. 1980,  
c. 302

(3) Where an improvement district or part of an improvement district is erected into a town, village or township, the tax arrears procedures of this Part apply to such town, village or township and the tax sale procedures of the *Municipal Act* do not apply, and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Ministry. R.S.O. 1970, c. 118, s. 71; 1972, c. 1, s. 1.

Tax arrears  
procedures  
re improve-  
ment  
districts  
erected into  
towns, etc.  
R.S.O. 1980,  
c. 302

**65.** Where the Ministry has heretofore ceased or hereafter ceases to exercise jurisdiction and control over a municipality under this Part pursuant to an order made under section 64, the Board shall, notwithstanding such order, continue to have and may, subject to the approval of the Ministry, exercise any of the powers mentioned in section 29 in the same manner as if such order had not been made. R.S.O. 1970, c. 118, s. 72; 1972, c. 1, s. 1.

Power of  
Board  
under s. 29  
to continue  
to apply

## FORM 1

(Section 40 (3) )

## TAX ARREARS CERTIFICATE

To the Land Registrar of the Registry (Land Titles) Division of .....

I HEREBY CERTIFY by virtue of the *Municipal Affairs Act*, section 40, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in such section, are hereby vested in and become the property of the.....  
.....of.....(naming the  
municipality).

Description of lands	Amount of Unpaid Taxes with Penalties, Interest and Costs	Whether Vacant or Improved Land

The period within which the right of redemption may be exercised under such Act with respect to the above-described land is one (1) year from the date of registration of this certificate.

Dated at.....this.....day of....., 19..

.....  
Treasurer

R.S.O. 1970, c. 118, Form 1; 1972, c. 1, s. 104 (6).

## FORM 2

(Section 40 (4) )

## NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE, that, by virtue of the *Municipal Affairs Act*, section 40, a tax arrears certificate has been registered against the following lands, namely:

.....  
 .....

and by reason thereof the same are vested in and are the property of The Corporation of the ..... of ..... (*naming the municipality*) subject only to your right of redemption of the same on or before the ..... day of ....., 19..., which is the last day for redemption.

AND TAKE FURTHER NOTICE, that, at the expiry of the redemption period, the municipality may sell or convey such land or by by-law declare such land to be required for municipal purposes without further notice to you.

Dated at ..... this ..... day of .....  
 19...

.....  
 Treasurer

1974, c. 111, s. 4.

## FORM 3

(Section 42 (2) )

## REDEMPTION CERTIFICATE

To the Land Registrar of the Registry (Land Titles) Division of .....

I HEREBY CERTIFY that the lands hereunder described have been redeemed by ..... under the *Municipal Affairs Act*.

*Description of Lands*

.....  
 .....



TAKE NOTICE that, where land is redeemed by any person entitled to redeem the same, other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem such land.

Dated at.....this.....day of.....19..

.....  
Treasurer

R.S.O. 1970, c. 118, Form 3; 1972, c. 1, s. 104 (6).

FORM 4

(Section 45 (1) )

VACATING CERTIFICATE

To the Land Registrar of the Registry (Land Titles) Division of .....

I HEREBY CERTIFY that the title of The Corporation of the  
.....of.....to the lands hereunder described is  
hereby vacated by the Corporation under the *Municipal Affairs Act*.

*Description of Lands*

.....  
.....

Dated at.....this.....day of....., 19..

.....  
Treasurer

R.S.O. 1970, c. 118, Form 4; 1972, c. 1, s. 104 (6).



## CHAPTER 304

## Municipal Arbitrations Act

1.—(1) An official referee may be appointed by the Lieutenant Governor in Council for any municipality to which this Act applies and he shall be the "Official Arbitrator" for the municipality for which he is appointed.

Appoint-  
ment of  
Official  
Arbitrator  
for specific  
municipality

(2) The official Arbitrator shall,

Powers, etc.,  
of Official  
Arbitrator

(a) be a judge of a county court or a barrister of at least ten years standing at the bar of Ontario;

qualification

(b) have all the powers of an official referee under the *Judicature Act* and of an arbitrator under the *Municipal Act* or under the *Arbitrations Act*;

powers  
R.S.O. 1980,  
cc. 223, 302,  
25

(c) be an officer of the Supreme Court;

status

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

disability

(e) have all the powers of a judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of valuers, appraisers, engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties, including the power of awarding costs.

other  
powers

(3) Where there is an Official Arbitrator for a municipality to which this Act applies, all claims against the municipality or against such municipality and an adjoining municipality and all questions arising under any lease or contract to which the municipality is a party and which by by-law or the terms of the lease or contract are to be determined by arbitration shall be heard and determined by the Official Arbitrator.

Claims  
against  
municipality  
having  
Official  
Arbitrator

(4) Where a claim is against a municipality and an adjoining municipality, each of which has an Official Arbitrator,

Claims  
against two  
municipalities  
having  
Official  
Arbitrators

neither municipality shall be deemed to have an Official Arbitrator. R.S.O. 1970, c. 286, s. 1.

**Vacancy**

**2.**—(1) The death of the Official Arbitrator or his ceasing to hold office from any cause pending a reference before him, before his award is made, does not abate the proceedings, but such reference shall be continued and all proceedings therein already taken shall be adopted, and an award made therein by his successor in office.

**Deputy  
Official  
Arbitrator**

(2) The Lieutenant Governor in Council may appoint a Deputy Official Arbitrator and, in case of the illness or absence or inability to act of the Official Arbitrator and during a vacancy in the office, the Deputy Official Arbitrator has all the powers and shall perform all the duties of the Official Arbitrator.

**Deputy  
Official  
Arbitrator  
for specific  
municipality**

(3) Where an Official Arbitrator has been appointed for a municipality under subsection 1 (1), a Deputy Official Arbitrator may be appointed for such municipality and he shall be the "Deputy Official Arbitrator" for the municipality for which he is appointed.

**Death of  
claimant**

(4) The death of the claimant pending a reference before the Official Arbitrator does not abate or determine the proceedings already taken before him, but such proceedings already taken may be continued by or against the legal representatives of the deceased, or by or against the person or person upon whom the estate or interest of the deceased devolves. R.S.O. 1970, c. 286, s. 2.

**Commence-  
ment of  
proceedings**

**3.** If any person interested in any such claim or question desires that it should be determined by the Official Arbitrator, he shall give to the clerk of the municipality and to every other person interested seven clear days notice that it is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy, and upon such notice, with proof of the service of it, being filed with him, the Official Arbitrator may proceed to hear and determine the matters so referred to him. R.S.O. 1970, c. 286, s. 3.

**When  
Official  
Arbitrator  
to state  
reasons in  
writing**

**4.** Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Divisional Court to determine the weight that should be attached to it. R.S.O. 1970, c. 286, s. 4.

**Filing  
award and  
evidence**

**5.** The award of the Official Arbitrator and exhibits and the reasons for his decision shall be filed in the office of the Registrar of the Supreme Court, and notice of the filing shall



be given forthwith by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors, and upon the request of any of the parties interested in the inquiry, the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the Registrar. R.S.O. 1970, c. 286, s. 5, *revised*.

**6.** The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. R.S.O. 1970, c. 286, s. 6. Fees to be paid before award made public

**7.** The award may be appealed against to the Divisional Court in accordance with the rules of court and is binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. R.S.O. 1970, c. 286, s. 7, *revised*. Appeal to Divisional Court

**8.** The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. R.S.O. 1970, c. 286, s. 8. Vacation

**9.** Where no appeal is taken within the prescribed time or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. R.S.O. 1970, c. 286, s. 9. Giving out exhibits when no appeal

**10.** Where an action has been brought or is pending, the court or a judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be considered proper, and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may consider just and convenient, and subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. R.S.O. 1970, c. 286, s. 10. Transferring actions to Official Arbitrator

**11.** Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. R.S.O. 1970, c. 286, s. 11. How costs to be taxed

**12.—(1)** One-half of the fees and expenses of the Official Arbitrator is payable by each of the parties to the reference if only two parties are interested, and proportionately by all By whom payable

parties interested if a larger number than two are so interested; but the Official Arbitrator has power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees and expenses are recoverable as any other costs of the arbitration.

Recovery  
of fees

(2) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof, the fees and expenses of the Official Arbitrator are recoverable by action from any one or more of the parties to the arbitration.

Idem

(3) Nothing herein prejudicially affects the right of the Official Arbitrator to recover his fees or expenses in any way in which they may now be recovered. R.S.O. 1970, c. 286, s. 12.

Power to  
make rules  
and tariff

**13.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee has the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as it has in respect of proceedings under the *Judicature Act*. R.S.O. 1970, c. 286, s. 13.

R.S.O. 1980,  
c. 223

Application  
of Act

**14.—(1)** This Act extends and applies to cities having a population of not less than 100,000, to The Municipality of Metropolitan Toronto, The Regional Municipality of York and to the Borough of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality be brought within the provisions of this Act, and in such case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof.

Repeal of  
by-law  
bringing Act  
into force

(2) The council of a municipality that has passed a by-law under subsection (1) may repeal it at any time after the expiration of six months from the passing of the by-law, and upon such repeal this Act ceases to apply or be in force in the municipality. R.S.O. 1970, c. 286, s. 14.

## CHAPTER 305

## Municipal Conflict of Interest Act

## 1.—(1) In this Act,

Interpreta-  
tion

- (a) “council” means the council of a municipality;
- (b) “local board” means a local board as defined in the *Municipal Affairs Act*;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (d) “ratepayer” means,
  - (i) in respect of a municipality or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
  - (ii) in respect of a public, separate or secondary school board, a person entitled to vote at the election of members of such board;
- (e) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office.

R.S.O. 1980,  
c. 303

(2) For the purposes of clause (3) (a), a member of a council or of <sup>Idem</sup> a local board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

*Idem*

(3) For the purposes of this Act, a member of a council or of a local board has an indirect pecuniary interest in a contract or proposed contract with the municipality or local board or in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board or in any other matter in which the council or local board is concerned, as the case may be,

(a) if he or his nominee is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public or has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public or is a member of a body,

(i) with which the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned; or

(b) if he is a partner of a person, or is in the employment of a person or a body,

(i) with whom the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned. 1972, c. 142, s. 1 (1-3).

*Idem*

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of a council or local board. 1976, c. 54, s. 1 (1).



(5) Where the number of members of a council or of a local board who have an indirect pecuniary interest by reason of the application of clause (3) (b) is such that at any meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. 1972, c. 142, s. 1 (5). Quorum deemed constituted

(6) Where, in the circumstances mentioned in subsection (5), the remaining number of members of council who do not have an indirect pecuniary interest is less than two, the council may apply to a judge for an order authorizing the council to give consideration to, discuss and vote on the contract, proposed contract or other matter out of which the indirect pecuniary interest arises. Application to judge

(7) The judge may, on an application brought under subsection (6), by order, declare that this Act does not apply to the council in respect of the contract, proposed contract or other matter in relation to which the application is brought, and the council thereupon may give consideration to, discuss and vote on the contract, proposed contract or other matter in the same manner as though none of the members of council had any indirect pecuniary interest therein. 1976, c. 54, s. 1 (2). Power of judge to declare Act not to apply

**2.—**(1) Where a member of a council or of a local board, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, Duty to disclose interest in contracts, etc.

(a) in any contract or proposed contract with the municipality or local board, as the case may be;

(b) in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board; or

(c) in any other matter in which the council or local board is concerned,

and is present at a meeting, including a committee or other meeting, of the council or local board at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter, or attempt in any way to influence the voting on any such question.

Idem

(2) Where the interest of a member of a council or of a local board has not been disclosed as required by subsection (1) by reason of his absence from the meeting referred to therein or by reason of such interest having been acquired after such meeting, he shall disclose his interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection (1) or after acquiring such interest.

Idem,  
associates

(3) The interest of any spouse, son, daughter or any other relative of a member of a council or local board who has the same home as such member, shall if known to the member, be deemed for the purposes of this section to be also an interest of the member.

Where  
subss. (1, 2),  
do not apply

(4) Subsections (1) and (2) do not apply to an interest in a contract, proposed contract or other matter that a member may have,

(a) as a ratepayer, or as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board;

(b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

(c) by reason of his purchasing or owning a debenture of the municipality or local board; or

(d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers.

Disclosure  
of interest  
to be  
recorded

(5) Every disclosure of interest under subsection (1) or (2) shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be.

Proceedings  
not invali-  
dated, but  
voidable

(6) The failure of any person to comply with subsection (1) or (2) does not of itself invalidate any contract, or the proceedings in respect of any proposed contract or other matter mentioned in subsection (1) or (2), but the contract or the proceedings in respect of any proposed contract or other matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two

years from the date of the passing of the by-law or resolution authorizing the contract or proposed contract or other matter. 1972, c. 142, s. 2.

**3.**—(1) In this section and in sections 4 and 5, “judge” <sup>Interpretation</sup> means a judge of the county or district court of the county or district in which the municipality is situate or in which the local board has jurisdiction.

(2) The question of whether or not a member of council or of a local board has contravened subsection 2 (1) or (2) may be tried and determined by a judge. 1972, c. 142, s. 3. <sup>Who may try alleged contravention of subss. 2 (1, 2)</sup>

**4.**—(1) Subject to subsection (3), a ratepayer may, within six weeks after the fact comes to his knowledge that a member of a council or of a local board may have contravened subsection 2 (1) or (2), apply to the judge by way of originating notice in the manner prescribed by the rules of court for a determination of the question of whether or not a member of a council or of a local board has contravened subsection 2 (1) or (2). <sup>Originating notice</sup>

(2) The ratepayer in his notice of motion shall state the grounds for finding a contravention by the member of council or of a local board of subsection 2 (1) or (2). <sup>Contents of notice of motion</sup>

(3) No application shall be brought under subsection (1) after the expiration of the term of office of the member of council or local board during which the contravention is alleged to have occurred. 1972, c. 142, s. 4. <sup>Time for bringing application limited</sup>

**5.**—(1) Where the judge determines that a member of council or of a local board has contravened subsection 2 (1) or (2), he shall, subject to subsection (2) of this section, declare the seat of the member vacant and may disqualify him from being a member of any council and of any local board during a period thereafter of not more than seven years. 1972, c. 142, s. 5 (1). <sup>Judge may declare seat vacant and disqualify member</sup>

(2) Where the judge determines that a member of council or of a local board has contravened subsection 2 (1) or (2), if the judge finds that the contravention was committed through inadvertance or by reason of a *bona fide* error in judgment or that the interest of the member is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection (1). 1976, c. 54, s. 2. <sup>Saving</sup>

Appeal to  
Divisional  
Court

**6.**—(1) An appeal lies from any order made under section 5 to the Divisional Court in accordance with the rules of court.

Judgment

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final. 1972, c. 142, s. 6.

Application  
of Act,  
to filling  
vacancies

**7.**—(1) Section 2 does not apply to the election or appointment of a member of a council or local board to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position.

to considera-  
tion of  
benefits to  
which all  
members  
entitled

(2) Nothing in this Act prevents a member of the council or of a local board from taking part in the consideration or discussion of, or from voting on any question in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member of the council or local board or otherwise by law, as the case may be. 1972, c. 142, s. 7.

Conflict

**8.** In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. 1972, c. 142, s. 8.



## CHAPTER 306

### Municipal Corporations Quieting Orders Act

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Ministry" means the Ministry of Intergovernmental Affairs;
- (c) "municipality" means a county, city, town, village or township;
- (d) "quieting order" means an order establishing the legal existence or corporate status of a municipality, or establishing its proper area and boundaries or any of its boundaries, in order to quiet doubts affecting the same. R.S.O. 1970, c. 287, s. 1; 1972, c. 3, s. 17 (2).

**2.—(1)** Upon the application of the council of a municipality, the Board may make a quieting order respecting the municipality. Power  
to make  
quieting  
order

(2) A quieting order may be made retroactive in its effect and operation for the purpose and to the extent provided therein, except that it does not affect or prejudice the rights of any person in any action, litigation or other proceeding pending at the time when the order is made. R.S.O. 1970, c. 287, s. 2. Retroactive  
effect of  
order

**3.—(1)** Where the council of a municipality is aware of any doubt affecting the legal existence or corporate status or proper area and boundaries of the municipality, or any of its boundaries, it may apply to the Board for a quieting order. Application  
for quieting  
order

(2) The application shall be in duplicate, shall specify the nature of the doubt that exists and shall be accompanied by a proposed description of the boundaries to be established. Particulars  
of  
application

(3) Upon receipt of an application for a quieting order, the secretary of the Board shall transmit one copy to the Ministry. R.S.O. 1970, c. 287, s. 3; 1972, c. 1, s. 1. Duplicate  
copy for  
Ministry

Public  
hearing

4.—(1) Except as provided in subsections (2), (3) and (4), the Board before making any order under section 2 shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Notice to  
provide for  
filing of  
objections

(2) The Board may direct that the notice to be given shall state that anyone objecting to the making of a quieting order may, within such time from the giving of the notice as may be prescribed by the Board, file his objection to the making of the quieting order with the clerk of the municipality that has made the application, or on whose behalf the application has been made by the Ministry.

Where no  
objection  
filed

(3) Where notice has been given under subsection (2), the Board may, when no notice of objection has been filed with the clerk within the time specified in the notice, make a quieting order respecting the municipality without holding a public hearing.

Where  
objections  
filed

(4) If one or more objections have been filed with the clerk within the time specified in the notice, the Board shall hold a public hearing. R.S.O. 1970, c. 287, s. 4; 1972, c. 1, s. 1.

Effect of  
quieting  
order

5. Every quieting order made by the Board is according to its tenor valid and binding for all purposes and upon all municipalities and persons. R.S.O. 1970, c. 287, s. 5.

Publication  
of quieting  
orders

6. Forthwith after the issue of a quieting order, the applicant shall,

- (a) publish the order locally in such manner as the Board may direct;
- (b) publish in *The Ontario Gazette* notice of the making of the order and the date thereof;
- (c) file a certified copy with the Ministry; and
- (d) register a certified copy in the proper land registry office, as in the case of an order of the Board registered under section 63 of the *Registry Act*, which section applies. R.S.O. 1970, c. 287, s. 6; 1972, c. 1, s. 1.

R.S.O. 1980,  
c. 445

Powers of  
Ministry

7. The Ministry may,

- (a) authorize the board of trustees of an improvement district or of a police village to apply under this Act for a quieting order with respect to the improvement

district or police village, as the case may be, and for such purpose all the provisions of this Act apply with necessary modifications;

- (b) require the council of any municipality to apply for a quieting order with respect to the municipality and upon neglect or failure of the council to apply for the order within sixty days after being so required, the Ministry may on behalf of the council and in the name of the municipality apply to the Board for the quieting order. R.S.O. 1970, c. 287, s. 7; 1972, c. 1, s. 1.

**8.** The fee payable upon an application under this Act shall be fixed by the Board, but shall not exceed \$15. R.S.O. 1970, c. 287, s. 8. <sup>Fee of Board</sup>





## CHAPTER 307

Municipal Elderly Resident's Assistance  
Act

## 1. In this Act,

Interpre-  
tation

- (a) "municipality" means a city, town, village and township;
- (b) "owner" means a person assessed as the owner of residential real property, and includes an owner within the meaning of the *Condominium Act*;
- (c) "personal residence" means the residence ordinarily inhabited by the owner. 1973, c. 154, s. 1; 1975, c. 35, s. 1.

R.S.O. 1980,  
c. 84

2.—(1) The council of a municipality may pass by-laws authorizing and directing the treasurer of the municipality to allow owners of residential real property in the municipality a uniform credit in an amount to be determined by the council of the municipality, against the real property taxes imposed by the municipality in respect of such real property, provided that,

By-law  
authorizing  
tax credit

- (a) such owner or the spouse of such owner or both occupies or occupy the property in respect of which real property taxes are imposed as his, her or their personal residence;
- (b) such owner or the spouse of such owner or both has or have attained the age of sixty-five years or such greater age as the by-law may provide;
- (c) such owner or the spouse of such owner or both has or have been assessed as the owner of residential real property in the municipality for a period of not less than one year, or for a period of not less than such other number of years up to five as the by-law may provide, immediately preceding the date of application for the credit; and
- (d) no such credit shall be allowed to an owner in respect of more residential real property than one single family dwelling unit in any year.

Additional  
requirement  
for  
qualification

(2) A by-law passed by the council of a municipality under this Act may provide that, notwithstanding subsection (1), no owner who otherwise qualifies under subsection (1), shall receive a credit unless such owner or the spouse of such owner or both is or are receiving a monthly guaranteed income supplement under Part II of the *Old Age Security Act* (Canada). 1973, c. 154, s. 2.

R.S.C. 1970,  
c. O-6

Continuation  
of tax credit  
to surviving  
spouse

(3) A by-law passed by the council of a municipality under this Act may provide for the continuation of such tax credits to the surviving spouse of a deceased person to whom a tax credit was allowed, if such spouse otherwise qualifies for such credit except for the provisions of clause (1)(c). 1975, c. 35, s. 2.

## CHAPTER 308

## Municipal Elections Act

## 1. In this Act,

Interpre-  
tation

1. "advance poll" means a poll held under section 66;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under the *Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1980,  
c. 31
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,  
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act;

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
14. "enumerated" means enumerated under the *Assessment Act*;
15. "holiday" means a holiday as defined in the *Interpretation Act*;
16. "local board" means a local board as defined in the *Municipal Affairs Act*;
17. "locality" means territory without municipal organization that is deemed a district municipality under the *Education Act*;
18. "Minister" means the Minister of Intergovernmental Affairs;
19. "municipality" means a city, town, village or township;
20. "new election" means an election other than a regular election;
21. "nomination day" means the last day for filing nominations;
22. "oath" includes an affirmation;
23. "office" means an office, the election to which is governed by this Act;
24. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under the *Assessment Act*;
25. "polling day" means the day on which the poll is to be taken under this Act;
26. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

R.S.O. 1980,  
c. 31

R.S.O. 1980,  
c. 219

R.S.O. 1980,  
c. 303

R.S.O. 1980,  
c. 129



27. "polling place" means the area designated by the clerk in which the facilities for the conduct of the poll are situate;
28. "polling subdivision" means a polling subdivision established by the clerk under this Act;
29. "preliminary list" means a preliminary list of electors;
30. "prescribed" means prescribed by the Minister;
31. "public school elector" means an elector who is not a separate school elector;
32. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
33. "regular election" means an election required to be held under section 10 of this Act;
34. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
  - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
  - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
35. "scrutineer" means any person appointed as a scrutineer by a candidate or by a council under section 6;
36. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the spouse of such supporter and any person entitled to be a separate school elector under the *Education Act*, 1977, c. 62, s. 1; 1980, c. 30, s. 1.

## APPLICATION OF ACT

Application  
of Act

**2.** Notwithstanding any other general or special Act, this Act applies to and governs all elections,

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election. 1977, c. 62, s. 2.

## ELECTION OFFICIALS

Returning  
and  
revising  
officer

**3.—**(1) Subject to subsections (2) and (3), the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning  
officer in  
police  
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

- (b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause (a) who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 59 (25) and (30) and subsection 113 (21) of the *Education Act* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. 1977, c. 62, s. 3. Clerks, duties in relation to school boards  
R.S.O. 1980, c. 129

**4.**—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside but no candidate is eligible to be appointed as a deputy returning officer or poll clerk. D.R.O. and poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place. Where unable to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place. Non-attendance of D.R.O., poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. Poll clerk to act for D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose, but no candidate is eligible for any such appointment. Assistants

(6) The clerk may, in writing, delegate to the assistant returning officers and assistant revising officers appointed under subsection (5), such of his statutory rights and duties in relation to the preparation for and conduct of the election as he considers necessary. Delegation by clerk

Duties of  
poll clerk

(7) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Oath

(8) Every returning officer, deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form.

Oath of  
D.R.O.

(9) The appointment and oath of the deputy returning officer under subsection (8) shall be endorsed upon or attached to the polling list maintained by the poll clerk for the polling place for which he is appointed. 1977, c. 62, s. 4.

Who may  
administer  
oaths

**5.**—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in Ontario. 1977, c. 62, s. 5 (1).

Idem

(2) The clerk may administer any oath required by this Act, and deputy returning officers, assistant returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. 1980, c. 30, s. 2.

No charge

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1977, c. 62, s. 5 (3).

Scrutineers  
appointed by  
candidate

**6.**—(1) Each candidate may appoint in writing such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act.

Limit on  
number  
present

(2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection (1) at any time.

Scrutineers  
appointed  
by council

(3) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. 1977, c. 62, s. 6.

Production  
of  
appointment

**7.** A person appointed as a scrutineer under section 6, before being admitted to a polling place shall, if so requested,



produce and show his appointment to the deputy returning officer for the polling place. 1977, c. 62, s. 7.

#### COSTS OF ELECTION

8.—(1) Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held. <sup>Cost of election</sup>

(2) The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto. <sup>Expenses of officers</sup>

(3) Where the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the board shall forthwith reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list. 1977, c. 62, s. 8. <sup>Expenses of by-election of local board</sup>

#### TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year. 1977, c. 62, s. 9 (1). <sup>Two-year term</sup>

(2) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized. 1978, c. 12, s. 1. <sup>Until new council organized</sup>

#### BIENNIAL ELECTIONS

10.—(1) An election shall be held in accordance with this Act in each municipality in the year 1978 and in every second year thereafter for the purpose of electing persons to offices. <sup>Election year</sup>

Vote on  
question,  
etc.

R.S.O. 1980,  
c. 244

(2) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board or in the case of a question submitted under the *Liquor Licence Act*, unless the Liquor Licence Board approves the taking of the vote on some other day. 1977, c. 62, s. 10.

#### POLLING DAY

Polling  
day

**11.**—(1) Polling day in a regular election shall be the second Monday in November in each election year.

Idem

(2) Where polling day as specified in subsection (1) falls on a holiday, polling day shall be the next succeeding day that is not a holiday, but the day for the undertaking of any other proceeding pertaining to the election shall not be affected thereby. 1977, c. 62, s. 11.

#### QUALIFICATION OF ELECTORS

Electors,  
resident

**12.** A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, he,

- (a) is a resident in such municipality;
  - (b) is a Canadian citizen or other British subject; and
  - (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.
- 1977, c. 62, s. 12; 1980, c. 30, s. 3.

Electors,  
non-resident

**13.** A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, but at any time during such period, he,

- (a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;
- (b) is a Canadian citizen or other British subject; and

- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1977, c. 62, s. 13; 1980, c. 30, s. 4.

**14.**—(1) No judge of any court is qualified to vote in any election. 1977, c. 62, s. 14. Judges not qualified to vote

(2) A person who on polling day is an inmate in a penal or correctional institution or a patient in a psychiatric facility in respect of whom a certificate of incompetence has been issued under the *Mental Health Act* or a declaration under the *Mental Incompetency Act* that he is a mentally incompetent person is in effect is disqualified from voting at any election. 1980, c. 30, s. 5. Disqualification of inmates in penal institutions, etc.  
R.S.O. 1980, cc. 262, 264

**15.** For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to. 1977, c. 62, s. 15. Evidence of citizenship

#### QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

**16.** Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. 1977, c. 62, s. 16. Who may vote on money by-laws

#### POLLING SUBDIVISIONS

**17.** Subject to section 18, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of April in an election year inform the assessment commissioner of the boundaries of each subdivision. 1977, c. 62, s. 17. Polling subdivisions

**18.** A polling subdivision shall not, so far as is practicable, Size

(a) contain more than 350 electors; or

(b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly. 1977, c. 62, s. 18.

#### PREPARATION OF PRELIMINARY LIST OF ELECTORS

**19.** An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the 30th day of September in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who meets the requirements for Preliminary list of electors

an elector under section 12 or 13 and such list shall signify opposite the name of an elector,

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- (d) who is enumerated as a separate school elector in accordance with the *Education Act*, that he is a separate school elector;
- (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant. 1977, c. 62, s. 19.

R.S.O. 1980,  
c. 129

For polling  
subdivision  
where no  
wards

**20.**—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one  
polling  
subdivision  
only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision. 1977, c. 62, s. 20.

For polling  
subdivision  
where wards

**21.**—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides; or
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

For one  
polling  
subdivision

(2) The name of an elector shall not be entered under this section in the preliminary list for more than one polling subdivision. 1977, c. 62, s. 21.



**22.** The assessment commissioner shall deliver the list of electors prepared by him under sections 19, 20 and 21 to the clerk and, in respect of a locality, to the secretary of the school board on or before the thirty-first day after the commencement date of the enumeration period in an election year. 1977, c. 62, s. 22.

List  
delivered  
to clerk

**23.** Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 22 is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be, prior to the printing or reproduction of the list required under section 24, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections. 1977, c. 62, s. 23.

Correction  
of list if  
manifest  
errors in it

#### PRELIMINARY LIST OF ELECTORS

**24.** Immediately after receipt of the list of electors delivered by the assessment commissioner under section 22, the clerk or secretary of the school board referred to in the said section 22, after making corrections, if any, under section 23, shall,

Printing  
of list

- (a) cause the list to be printed or reproduced and such list shall be the preliminary list of electors;
- (b) fix the places at which and the times when revision of the list will be undertaken;
- (c) post notice of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken in at least two conspicuous places in the municipality, and where there is a newspaper having general circulation in the municipality, publish the notice in such newspaper. 1977, c. 62, s. 24; 1980, c. 30, s. 6.

#### REVISION OF PRELIMINARY LIST OF ELECTORS

**25.—(1)** Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall post one copy of the list in a conspicuous place in his office and in at

Revision  
of list

least two other conspicuous public places in the municipality. 1977, c. 62, s. 25 (1).

Time for  
posting, etc.

(2) The day of posting copies of the preliminary list under subsection (1), of giving notice under section 24 and of commencing revision of the list shall be at least seven days before the last day for filing applications for revision. 1980, c. 30, s. 7 (1).

Last day  
for filing  
applications  
for revision of  
preliminary  
list

(3) The last day for the filing of applications for revision of the preliminary list shall be the nineteenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours. 1980, c. 30, s. 7 (2).

Notice  
affixed  
to list

(4) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

(a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;

(b) setting forth the date on which the list was posted up in the office of the clerk;

(c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and

(d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions. 1977, c. 62, s. 25 (4).

Copies  
of list

(5) At the time of posting a notice under subsection (1), the clerk shall deliver or mail one copy of the preliminary list to,

(a) the assessment commissioner;

(b) every member of the council of the municipality, every trustee of a police village all or part of which is in the municipality and every member of every local board the members of which are required to be elected at an election to be conducted by the clerk;

(c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;

(d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;

(e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;

(f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate. 1977, c. 62, s. 25 (5), 1980, c. 30, s. 7 (3).

(6) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. 1977, c. 62, s. 25 (6). Candidates entitled to copies

**26.**—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed on or before the last day for filing applications for revision of the list have been disposed of. Revision of list

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 25 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them. 1977, c. 62, s. 26. When applications may be considered

**27.**—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. 1980, c. 30, s. 8. Application to enter name in or delete name from list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be. Application and declaration

Application  
filed person-  
ally or by  
agent

(3) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf.

Interpreter

(4) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision  
to amend  
list

(5) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application.

Refusal to  
amend list

(6) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1977, c. 62, s. 27 (2-6).

Application  
for deletion  
of name

**28.—**(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing applications for revision thereof, any person may file with the clerk an application, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon.

Notice to  
person  
where name  
objected to

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice.

Copy of  
application  
to be served

(3) A copy of the application shall accompany a notice served or sent under subsection (2).

Notice to  
applicant

(4) The clerk shall notify the applicant of the time and place of the hearing.

Decision of  
clerk, etc.

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall



attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if the clerk is satisfied of the validity of the application.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list. 1977, c. 62, s. 28 (1-6).

Where person  
objected to  
does not  
appear

(7) Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given. 1980, c. 30, s. 9.

Where  
name deleted  
from pre-  
liminary list

**29.** Subject to section 33 or 56, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. 1977, c. 62, s. 29.

Decision  
final

**30.** Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsection 25 (5) and shall furnish two certified copies of such statement to every candidate for any office. 1980, c. 30, s. 10.

Statement  
of change

## POLLING LIST

Polling list

**31.** After compilation of the statement of additions, changes and deletions required under section 30, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. 1977, c. 62, s. 31.

Only  
persons  
in list  
entitled  
to vote

**32.** Except as provided in sections 33, 51 and 56 no person is entitled to vote at an election unless his name appears in the polling list certified under section 31 for the polling subdivision in which he tenders his vote. 1977, c. 62, s. 32.

Entry of name  
on list by  
D.R.O.

**33.**—(1) If a person whose name is omitted from a polling list certified under section 31, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

Certificate  
to be  
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection (1) or (2). 1977, c. 62, s. 33 (1-3).

Entry on  
polling  
list

(4) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name

and address of the person voting under the authority of a certificate issued under this section. 1980, c. 30, s. 11 (2).

(5) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1977, c. 62, s. 33 (6). Certificates to be kept in separate envelope

#### NOMINATIONS

**34.** Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office. 1977, c. 62, s. 34. Who may be nominated

**35.—**(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day. 1977, c. 62, s. 35 (1). Nomination day

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours during the four days immediately preceding nomination day. 1980, c. 30, s. 12. Period for nomination

(3) The clerk shall, at least seven days prior to nomination day, post in at least two conspicuous places in the municipality notice of the date and times for filing nominations and of the offices for which persons may be nominated as candidates in the election, and, where there is a newspaper having general circulation in the municipality, publish at least seven days prior to nomination day the notice in such newspaper. 1977, c. 62, s. 35 (3). Notice of time for filing nominations

**36.—**(1) A person may be nominated as a candidate for an office by filing, either personally or through his agent, in the office of the clerk, on the days and during the hours specified in subsection 35 (2), a nomination paper in prescribed form which, How nominated

(a) shall be signed by at least ten electors whose names are entered on the preliminary list of electors or who have made application to have their names included on the list and who are entitled to vote in the election to such office;

(b) shall state the name and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is. 1977, c. 62, s. 36 (1); 1980, c. 30, s. 13 (1, 2).

Consent and  
declaration  
to be filed

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated.

Public  
school  
nominators

(3) A nomination paper nominating a person for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only.

Separate  
school  
nominators

(4) A nomination paper nominating a person for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only.

Separate  
nomination  
papers

(5) Each person to be nominated for election to an office shall be nominated by a separate nomination paper, but an elector may sign more than one nomination paper for the same person and the nomination papers of more than one person. 1977, c. 62, s. 36 (2-5).

Possession of  
nomination  
paper by  
clerk

(6) After a nomination paper is certified by the clerk, it shall remain in the possession of the clerk but shall be open to inspection by any person during the normal office hours of the clerk. 1980, c. 30, s. 13 (3).

Onus on  
person  
nominated

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. 1977, c. 62, s. 36 (7).

Endorsation  
by clerk

**37.**—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing.

Certificate  
of clerk

(2) Where a nomination paper is filed in the office of a clerk prior to nomination day, the paper shall be examined by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing.



(3) When the nomination papers have been certified by the clerk he shall cause the name and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. <sup>Posting</sup>

(4) Where a nomination paper is filed in the office of a clerk on nomination day, <sup>Where  
filed on  
nomination  
day</sup>

(a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection (3);

(b) if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing. 1977, c. 62, s. 37 (1-4).

(5) Where, at 5 o'clock in the afternoon of the day following nomination day, the number of candidates who have been nominated for an office and have not withdrawn under subsection 39 (1) is not sufficient to fill the number of vacancies to which candidates may be elected, subsection 40 (1) respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection (4) of this section and subsection 39 (1) apply, with necessary modifications. 1980, c. 30, s. 14. <sup>Where  
number of  
candidates  
nominated  
insufficient</sup>

(6) Certification by the clerk in accordance with subsection (2) or (4) with respect to a nomination paper shall be conclusive evidence of the facts certified and shall not be open to challenge thereafter. <sup>Certification  
by clerk</sup>

(7) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations and the list shall be completed no later than 4 o'clock in the afternoon of the day following nomination day provided that where the clerk <sup>List of  
candidates</sup>

has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later than 4 o'clock in the afternoon of the Thursday following nomination day. 1977, c. 62, s. 37 (6, 7).

#### DEATH OF A CANDIDATE

Election on  
death of  
candidate

**38.**—(1) If as a result of a candidate nominated for election to an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated. 1977, c. 62, s. 38.

Death of  
candidate  
for head of  
council

(2) Notwithstanding subsection (1), if a candidate nominated for election to the office of the head of the council of a municipality dies before the close of the poll for the election and,

- (a) prior to 5 o'clock on the afternoon of nomination day, additional nominations for the office may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 37 (4) apply, with necessary modifications, as though the additional nomination papers had been filed on nomination day; or
- (b) after 5 o'clock on the afternoon of nomination day, the election to such office is void and a new election shall be held to fill such office. 1980, c. 30, s. 15.

#### WITHDRAWAL OF NOMINATIONS

Withdrawal  
of nomina-  
tion

**39.**—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day.

Where  
nominated  
in more  
than one  
office

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with

the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. 1977, c. 62, s. 39.

#### ACCLAMATIONS

**40.**—(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall forthwith after 5 o'clock in the afternoon of the day following nomination day declare that candidate or those candidates duly elected. <sup>Acclamation</sup>

(2) In the case where additional nominations have been filed under subsection 37 (5) and the additional number of candidates nominated is not more than the remaining number of vacancies for which the additional candidates were nominated, the clerk shall forthwith after 5 o'clock in the afternoon of the Thursday following nomination day, declare that candidate or those candidates duly elected. 1978, c. 12, s. 4. <sup>Idem</sup>

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. 1977, c. 62, s. 40 (2). <sup>Idem</sup>

(4) If the number of candidates declared to be elected to an office under subsection (1), (2) or (3) is less than the number to be elected to such office so there is a vacancy, a new election shall be held to fill the vacancy, except that where the number of candidates declared to be elected is sufficient to form a quorum, the vacancy may be filled in accordance with section 45 of the *Municipal Act*. 1980, c. 30, s. 16. <sup>Vacancy</sup>

R.S.O. 1980,  
c. 302

(5) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection (4) is held and the number of members of the council or local board equals or exceeds the quorum. 1977, c. 62, s. 40 (4). <sup>Where quorum not elected</sup>

## NOTICE OF POLL

Poll  
required

**41.**—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office.

Notice  
of poll

(2) Notice of the time for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper. 1977, c. 62, s. 41.

## VOTING BY BALLOT

Voting  
by ballot

**42.**—(1) Where a poll is held in an election, the votes shall be given by ballot.

Voting  
machines,  
etc.

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed.

Repealing  
by-law

(3) A by-law passed under subsection (2) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Minister's  
order

(4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. 1977, c. 62, s. 42.

## PREPARATION AND FORM OF BALLOT

Ballots

**43.**—(1) A clerk who is required to hold a poll under section 41 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.



(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 37.

Nomination  
of candidate  
must be  
certified

(3) Subject to subsection (5), the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type.

Order of  
names

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

Where  
addresses  
to be shown

(5) Except as provided in subsection (4), no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

Nicknames  
and titles

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot.

Space for  
indicating  
vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection (8), and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices.

Ballots  
for same  
office to  
be alike

(8) A ballot shall contain instructions as to the number of candidates for which an elector may vote and the name of the office for which the election is being held. 1977, c. 62, s. 43 (1-8).

Number of  
candidates  
and name  
of office

(9) In a metropolitan, regional or district municipality, and in the County of Oxford, a ballot shall contain information showing the name of the office for which the election is being held and the name of any office on any other council which will be held as a result of the election to such office. 1980, c. 30, s. 17.

Information  
on ballot  
in regional,  
etc., muni-  
cipalities

(10) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. 1977, c. 62, s. 43 (9).

Ballots re  
questions

Wards in  
municipality

44.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward.

General  
vote in  
city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor.

Borough in  
Metro.  
Toronto

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman.

Village or  
township

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

By-law  
providing  
for separate  
sets

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets.

When to be  
passed

(6) A by-law for the purposes mentioned in subsection (5) shall be passed not later in the election year than the 1st day of October and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly.

Separate sets  
for  
controller,  
local board,  
by-laws, etc.

(7) There shall also be separate sets of ballots,

(a) containing the names of the candidates for the office of,

(i) controller,

- (ii) member of a local board,
  - (iii) trustee of a police village,
  - (iv) member of the council of a regional municipality, or
  - (v) member of the council of both an area municipality and a regional municipality;
- (b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. 1977, c. 62, s. 44. More than one by-law, etc.

**45.—(1)** In place of using separate ballots under this Act, the council of a municipality may, by by-law passed prior to the first day of October in an election year, authorize the use at a municipal election of composite ballots in such form, subject to subsections 43 (1) to (8), as the by-law prescribes. Composite ballots

(2) A composite ballot may contain, Contents

- (a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and
- (b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote. Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed. 1977, c. 62, s. 45. By-law in force until repealed

#### POLLING PLACES

**46.—(1)** Subject to section 47, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient Polling place

for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision.

Idem

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality.

Compart-  
ments

(3) Every polling place shall be furnished with compartments in which electors may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place.

United  
subdivisions

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Additional  
places

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its electors from the polling place and number of electors that may conveniently vote at one polling place.

Designation  
of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly. 1977, c. 62, s. 46 (1-6).

Notice of  
location of  
polling  
place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the location of the polling place in which that elector is to vote,

(a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the location of such polling place; and

(b) in the case of a non-resident elector, by mailing to the elector a notice of the location of such polling place. 1978, c. 57, s. 2.



(8) Notwithstanding clause (7) (a), the council of a municipality <sup>Idem</sup> having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address. 1980, c. 30, s. 18.

**47.—**(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only. <sup>Polling places in institutions</sup>

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 63. 1977, c. 62, s. 47. <sup>Attendance upon patients to take vote</sup>

#### SUPPLIES AND EQUIPMENT FOR POLLING PLACES

**48.—**(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality, <sup>Supplies for polling place</sup>

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors in the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of electors for the purposes of the polling place;
- (d) two copies of the polling list for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed.

Ballot box

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box.

Clerk to  
certify  
number of  
ballots

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 78.

Directions  
to be  
placarded

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 1977, c. 62, s. 48.

#### WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number  
of votes  
that  
may be  
given by  
an elector

**49.**—(1) An elector whose name appears in the polling list for a polling subdivision or who presents a certificate to vote there under section 33, 50 or 56, is entitled to vote in an election in such subdivision in accordance with the following rules:

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.
3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
  - i. if resident in the municipality, in the polling subdivision in which he resides; or
  - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,

for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.

5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question.

(2) Where, by reason of the hours of his employment, an employee who is a qualified elector will not have three consecutive hours to vote while the polls are open on a polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

Employees to have three consecutive hours for voting

(3) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. 1977, c. 62, s. 49.

Deduction from pay prohibited

**50.**—(1) Subject to subsection (2), at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate in the prescribed form that he is entitled to vote at the polling place at which he is stationed during the polling day. 1980, c. 30, s. 19 (1).

Voting of D.R.O., poll clerk, etc., where employed

Where  
municipality  
divided into  
wards

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate. 1977, c. 62, s. 50 (2).

When  
certificate  
may be  
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at the polling place at which, by the polling list or certificate under section 33, he had been entitled to vote. 1980, c. 30, s. 19 (2).

Certificate

(4) The certificate shall designate the polling place at which the person is to be permitted to vote. 1977, c. 62, s. 50 (4).

Certificate  
entitles  
person to  
vote

**51.**—(1) A person who produces a certificate given to him under section 50 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk, election assistant or constable during polling day. 1977, c. 62, s. 51 (1).

Entry on  
polling  
list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under section 50. 1980, c. 30, s. 20.

Certificate,  
to be given  
to D.R.O.

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

to be kept  
in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1977, c. 62, s. 51 (3, 4).

#### PROCEDURE AT POLL

Hours poll  
to be  
open

**52.** Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day. 1977, c. 62, s. 52.

When  
D.R.O. to  
attend poll

**53.**—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Inspection of  
ballots before  
opening of  
poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a



polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll. 1977, c. 62, s. 53.

**54.** A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 71. 1977, c. 62, s. 54.

Inspection,  
sealing of  
ballot box

**55.**—(1) Where a person enters the polling place and requests a ballot paper, the deputy returning officer shall proceed as follows:

Duties of  
D.R.O. on  
tender of  
vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered in the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 33 or 50 and the poll clerk shall, on a separate polling list, delete the name of the said person on such polling list.
2. The poll clerk shall indicate on his polling list opposite the person's name the numerical order in which the person was given his ballot paper.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the words "*Objected to by* . . . . . (name of candidate on whose behalf the objection was made)" and the deputy returning officer shall require the person in respect of whom the objection was made to take the prescribed oath.

5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no candidate or scrutineer has objected, he may require such person to take the prescribed oath.
6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person on the polling list maintained by the poll clerk the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name on the polling list maintained by the poll clerk, the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of the ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting. 1977, c. 62, s. 55 (1); 1978, c. 12, s. 5; 1980, c. 30, s. 21 (1).

Elector in  
polling  
place at  
closing

(2) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote. 1977, c. 62, s. 55 (3).

Entry of  
name on  
polling list  
by D.R.O.

**56.**—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear on the polling list or in a certificate issued under section 33 or 50 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer. 1977, c. 62, s. 56 (1).

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the elector. 1980, c. 30, s. 22 (1).

**57.** Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper. 1977, c. 62, s. 57.

Where it appears person voted in place of elector, etc.

**58.** No inquiry shall be made of an elector who is required to take the oath under section 55 or 57 except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated in the polling list. 1977, c. 62, s. 58.

Inquiry

**59.** Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

Procedure on receipt of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer. 1977, c. 62, s. 59.

**60.—(1)** Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the

Duty of D.R.O. on receipt of ballot

presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Person  
deemed  
to have  
voted

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. 1977, c. 62, s. 60.

Person not  
to take  
ballot  
from polling  
place

**61.**—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry on the polling list maintained by the poll clerk "*Forfeited Vote*" opposite the person's name, and in the case where a person returns his ballot declining to vote, the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk.

Ballot  
accidentally  
spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk. 1977, c. 62, s. 61.

No other  
person in  
compartment  
while elector  
marking  
ballot

**62.** Subject to section 63, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper. 1977, c. 62, s. 62.

Elector  
blind or  
handicapped

**63.**—(1) On the application of any elector who is unable to read or is blind or is handicapped by other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his inability to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box.

Handicapped  
elector's  
ballot  
marked by  
friend

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of any such elector who has taken the prescribed oath and is accompanied by a friend, shall



permit the friend to accompany the elector into the voting compartment and mark the elector's ballot for him.

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take the prescribed oath that he will keep secret the manner in which the elector voted. Oath of friend

(4) No person shall be allowed to act as the friend of more than one elector at any polling place other than a polling place established under section 47. 1977, c. 62, s. 63. May act as friend only once

**64.** Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. 1977, c. 62, s. 64. Elector who cannot understand English

**65.**—(1) The returning officer, the assistant returning officer, the deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. Who may remain in polling place

(2) No campaign material or literature of any nature whatsoever of any candidate in the election shall be displayed within the polling place. 1977, c. 62, s. 65. No campaign literature in polling place

#### ADVANCE POLLS

**66.**—(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56. Advance poll

(2) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk Additional advance poll

of additional advance polls for the same purpose as provided in subsection (1).

When poll  
to be  
open

(3) The advance poll shall be open from 9 o'clock in the forenoon until 8 o'clock in the afternoon on each day it is held and polling shall be held so far as possible in the same manner as polling at a regular election.

Polling  
places

(4) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place.

List of  
persons  
voting

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of  
clerk on  
receiving  
list

(6) Upon receiving the list mentioned in subsection (5), the clerk shall,

(a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears in such list and whose vote has been received at an advance poll, showing that such elector has voted; or

(b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed in the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted.

Sealing  
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any

ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it, along with all other election documents used at the poll, personally to the clerk for safe keeping. 1977, c. 62, s. 66 (1-7).

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election or their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. 1980, c. 30, s. 23.

Opening of  
ballot boxes  
for advance  
poll

#### PROXY VOTING

**67.**—(1) Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 entitling him to vote and who is,

Who may  
vote by  
proxy

- (a) a person other than one described in section 47 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;
- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered in the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy under subsection (1) may appoint in writing in the prescribed form as his voting proxy any other person who is eligible as an elector in the municipality.

Who may be  
proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the

May be  
proxy once  
only

person voting by proxy is the parent, grandparent, child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy.

Term of  
appointment

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day.

Application  
for certificate  
to vote by  
proxy

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote.

When  
certificate  
to be given

(6) The clerk may take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualification of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is authorized to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect.

Not more  
than one  
proxy

(7) Not more than one voting proxy may be appointed on behalf of any person at any election.

Oath on  
voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection (6) and takes the prescribed oath.

Record of  
voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose.

Proxy may  
vote in  
own right

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy. 1977, c. 62, s. 67.

#### KEEPING OF PEACE: EMERGENCY SITUATIONS

Assistance of  
constables

**68.** A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in main-



taining peace and order at the election and may swear in as many constables as he considers necessary. 1977, c. 62, s. 68.

**69.**—(1) If any circumstances arise in the municipality, that, in the opinion of the clerk are of such a nature as to prevent or delay the opening of any polling place or cause the discontinuance of polling at any polling place, the clerk may declare an emergency situation to be in effect and such emergency situation shall continue until the clerk otherwise declares. Declaration of emergency by clerk

(2) Where an emergency situation is declared under subsection (1), the clerk shall make such arrangements as he considers advisable for the conduct of the poll, the safe-keeping of the ballot boxes and all election documents and the counting of the votes. Arrangements by clerk

(3) The arrangements made by the clerk under subsection (2), in good faith, shall not be open to question, or be quashed, set aside or declared invalid on account of their unreasonableness or supposed unreasonableness. 1977, c. 62, s. 69. Not open to question

#### COUNTING THE VOTES

**70.** Immediately after the close of the poll, the deputy returning officer at each polling place shall, Duties of D.R.O. after close of poll

(a) place all the cancelled, declined and unused ballots in separate sealed envelopes;

(b) count the number of electors whose names appear on the polling list maintained by the poll clerk to have voted and make an entry at the end thereof:—  
“The number of electors who voted at this election in this polling place is (stating the number)” and sign his name thereto. 1977, c. 62, s. 70.

**71.**—(1) After compliance with section 70, the deputy returning officer shall, in the presence and in full view of the persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot. Counting of votes

Rejection of  
ballots

(2) In counting the votes, the deputy returning officer shall reject all ballots,

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

Idem

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection (2), the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

Composite  
ballots

(4) Where in a composite ballot,

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection (2), the

votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

(5) Where part of the votes cast in any ballot are rejected under subsection (3) or (4), the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot. 1977, c. 62, s. 71.

Where part  
of votes  
rejected

**72.**—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 71 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objection  
by candidate,  
etc.

(2) The deputy returning officer shall list all objections under subsection (1) to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number. 1977, c. 62, s. 72.

Objections to  
be listed

**73.** The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question. 1977, c. 62, s. 73.

How votes  
counted

**74.** Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

Ballots to  
be placed  
in separate  
packets

(a) all used ballots that have not been objected to and have been counted in whole or in part ;

(b) all used ballots that have been objected to but which have been counted in whole or in part ;

(c) all rejected ballots ;

(d) all ballots used but unmarked. 1977, c. 62, s. 74.

**75.** The deputy returning officer shall endorse every packet of ballots made up by him under clause 70 (a) or section 74 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet. 1977, c. 62, s. 75.

D.R.O. to  
endorse  
packets

Oath of  
poll clerk

**76.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1977, c. 62, s. 76.

STATEMENT AND MATERIALS RETURNED TO CLERK

Statement  
of D.R.O.

**77.**—(1) The deputy returning officer shall make out a statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) electors whose ballots have been marked by the deputy returning officer under sections 47 and 63.

Statement  
attached to  
polling list

(2) The duplicate statement shall be attached to the polling list maintained by the poll clerk and the original statement enclosed in a special packet shall be delivered to the clerk as provided herein.

Statement  
signed by  
D.R.O., etc.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it.

Certificate  
re ballots  
counted and  
rejected

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. 1977, c. 62, s. 77.

What to be  
placed in  
ballot box

**78.**—(1) The deputy returning officer shall place in the ballot box, the polling lists, the packets containing the ballots and all other documents or packets that served at the election, except,

- (a) the original statement;
- (b) the oath of the poll clerk;



(c) the oath of the person, if any, chosen to deliver the ballot box to the clerk; and

(d) the copies of the declaration required to be furnished to the clerk under subsection 56 (3).

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk. Box to be locked, etc.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk. Oath of D.R.O.

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection (1) owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath. Delivery of ballot box, etc., to clerk

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk under this section. 1977, c. 62, s. 78 (1-5). Right of candidate, etc., to be present

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to any place except the office of the clerk, or to such other place as the clerk has in writing directed. 1980, c. 30, s. 24. Where D.R.O. to take ballot box

**79.**—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 78, shall, without opening any of the ballot boxes, cast up from the original statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. Clerk to add up votes

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no Declaration of result

town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

Delay in  
adding up  
votes

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1977, c. 62, s. 79.

Safekeeping  
of box and  
documents

**80.**—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 78, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 1977, c. 62, s. 80 (1).

Opening  
box when  
documents  
omitted from  
or placed in  
box in  
error

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. 1980, c. 30, s. 25.

Where D.R.O.  
fails to  
deliver  
statement

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 78, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes. 1977, c. 62, s. 80 (3).

Where ballot  
box lost,  
etc.

**81.** If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or

question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question. 1977, c. 62, s. 81.

**82.**—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question. Equality of votes

(2) In such proceedings, sections 83 to 90 apply with necessary modifications. Application of ss. 83-90 1977, c. 62, s. 82.

#### RECOUNT

**83.**—(1) In this section and in sections 84 to 86, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate. Interpretation 1977, c. 62, s. 83 (1).

(2) If, within fourteen days after the declaration by a clerk of a result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has served a copy of the application, including his affidavit, upon each candidate involved in the election which is the subject of the application, and upon the clerk, and has given security for the costs in connection with the recount or final addition of any candidate declared elected in the sum of \$100 or if at any time within four weeks after such declaration the council of the municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition. Where recount desirable 1980, c. 30, s. 26 (1).

Notice of  
recount

(3) At least six days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election.

Who may be  
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount.

What ballots  
involved in  
recount

(5) Where a recount relates to the election of a candidate, the recount shall be of the votes cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the votes cast for him to be recounted or the votes cast for him to be finally added.

Judge may  
order recount,  
etc., of votes  
cast for other  
candidates

(6) Notwithstanding subsection (5), the judge conducting the recount may order the recount of the votes cast for any other candidate whose election or right to any other office may be affected in any way by the recount conducted under subsection (5).

Procedure  
by judge

(7) At the date, time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots.

Rules to  
govern  
proceedings

(8) Subject to subsection (9), the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.



(9) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office.

Judge may hear any evidence necessary for proper recount

(10) Upon the completion of a recount, or final addition, the judge shall forthwith notify in writing the result of the recount or final addition to the clerk and announce the results to persons present at the recount, and, immediately after the expiry of the appeal period specified in section 88, all the ballots and statements shall be sealed in separate packets in the manner prescribed by the judge.

Judge to notify clerk of result of recount or final addition

(11) The judge may require the clerk of the county or district court to be present at the time and place appointed. 1977, c. 62, s. 83 (3-11).

Clerk of court

(12) Any candidate declared elected is entitled to sit on the council or board notwithstanding that an application for a recount or final addition has been brought under this section, but where the recount or final addition determines that some other person was elected, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of.

Right to sit pending recount or final addition

(13) The decisions of a council or local board reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. 1980, c. 30, s. 26 (2).

Decisions not affected

**84.** If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question. 1977, c. 62, s. 84.

If no appeal, clerk to declare result

**85.**—(1) In the case of an equality of votes for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk.

Equality of votes

Method of  
conducting  
lot

(2) For the purposes of this section, "lot" means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk. 1977, c. 62, s. 85.

Costs of  
recount

**86.**—(1) The costs of a recount under section 83 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid.

Awarding  
of costs

(2) The judge may in his discretion award costs of a recount or final addition to or against any person who is a party to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

Where no  
provision as  
to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board.

Payment of  
deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 83 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement  
of payment  
of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them.

Expenses of  
judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board. 1977, c. 62, s. 86.

Where no  
appeal,  
packets to  
be returned  
to clerk

**87.**—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause packets, sealed in accordance with subsection 83 (10), to be returned to the custody of the clerk.

Documents  
not required  
on appeal

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the

packets of ballots and such of the original statements as are not required for the purpose of the appeal to be returned to the custody of the clerk. 1977, c. 62, s. 87.

#### APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

**88.**—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Appeal from  
decision of  
judge

(2) The notice may be served upon the other parties personally, or as a judge of the Divisional Court may direct.

Service of  
notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall forward the sealed packets of the ballots or statements that are the subject of appeal, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 83 to the clerk.

Ballots, etc.,  
to be for-  
warded to  
Registrar  
of Supreme  
Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment  
for hearing

(5) At the time appointed, the Divisional Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify the decision of the court to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk.

Procedure on  
appeal

(6) The Divisional Court may direct by and to whom the costs of the appeal shall be paid.

Costs of  
appeal

(7) Where the Divisional Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk shall be paid by the municipality. 1977, c. 62, s. 88, *revised*.

Idem

## DISPOSITION OF ELECTION RECORDS

Disposition  
of ballots

**89.**—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition  
of other  
documents

(2) Subject to subsection (1), the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. 1977, c. 62, s. 89.

Inspection  
of ballots

**90.**—(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

Order of  
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. 1977, c. 62, s. 90.

Production  
of documents  
by clerk

**91.** Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1977, c. 62, s. 91.

## NEW ELECTIONS

New  
election

**92.**—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which,

(a) a directive is given in any judicial proceedings;

(b) the council of the municipality passes a by-law; or



- (c) the clerk receives from the secretary of a school board notice,

that such an election is required.

(2) The procedure including the period for filing nominations <sup>Procedure</sup> at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.

(3) The polling required to fill a vacancy in an office by this <sup>Polling</sup> section shall so far as possible be held in the same manner and by the same officers and take place at the same places, in so far as practicable, at which the polling took place at the last regular election.

(4) Unless a new preliminary list of electors has been <sup>List of electors</sup> furnished by the assessment commissioner under subsection (5), the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply with necessary modifications to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause 38 (a) or subsection 40 (3), the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the polling day for the last regular election.
2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 111 (6).
3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the

period following such qualification period terminating on the date of the directive, by-law or notice specified in clause (1) (a), (b) or (c).

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 132 of the *Municipal Act*. 1977, c. 62, s. 92 (1-4).

R.S.O. 1980,  
c. 302

Idem

R.S.O. 1980,  
c. 31

(5) Where in the year following an election year the annual enumeration under the *Assessment Act* has, not less than sixty days prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection (4), as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 14 of the *Assessment Act*. 1978, c. 12, s. 6.

Certification  
of list

(6) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 31 and to entry of names in the list under sections 33 and 56.

Eligibility  
of member  
to be  
candidate  
for other  
office

(7) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the nomination day for the new election, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds.

Vacancy  
after  
March 31st  
of election  
year

(8) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year.

(9) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. 1977, c. 62, s. 92 (6-9). Revision of partial list

**93.** Notwithstanding that a new election becomes necessary, meetings of the council may be held if a quorum of the council is present. 1977, c. 62, s. 93. Council may meet notwithstanding vacancy

#### EFFECT OF IRREGULARITIES

- 94.** No election shall be declared invalid, Irregularities not to offset result
- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
  - (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
  - (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
  - (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1977, c. 62, s. 94.

#### SECRECY OF PROCEEDINGS

**95.**—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. Secrecy of proceedings

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted. Interference with elector

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted. Communication as to voting

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it so as to make known to any person how he has voted. Inducing person to show ballot

Voter not  
to show  
ballot

(5) Subject to section 63, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

No one com-  
pellable to  
disclose  
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 1977, c. 62, s. 95.

#### OFFENCES, PENALTIES AND ENFORCEMENT

Voting when  
not qualified,  
etc.

**96.** Every person who, at an election,

- (a) not being qualified to vote, votes;
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 96.

Improper  
voting by  
proxy

**97.** Every person who,

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 97.

Wilful  
miscount  
of ballots

**98.** Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 98.

Neglect of  
duties

**99.** Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1977, c. 62, s. 99.



**100.** Every person who,

Offences  
relating to  
ballot  
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 100.

**101.** Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 101.

False  
information  
to authorized  
persons

**102.** Every person who,

Offences of  
inducing un-  
qualified  
person to vote  
or publishes  
false state-  
ment of with-  
drawal of  
candidate

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 102.

**103.—(1)** Every person who,

Bribery:

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or

bribing  
elector or  
procuring  
bribery by  
money

offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

by gift or  
offer or  
promise of  
employment

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

to induce  
anyone to  
procure  
return of  
candidate  
or endeavour  
to procure

- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or

receiving  
bribe to  
procure  
return of  
candidate

- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or

advancing  
money to  
be spent  
in corrupt  
practices

- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying  
for money  
or employ-  
ment in  
considera-  
tion of  
voting

- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the

gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment ; or

- (g) before or during an election, directly or indirectly, receiving money, office, etc., for having voted himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election ; or
- (h) after an election, directly or indirectly, receiving money corruptly after election himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election ; or
- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, giving or promising office to candidate to stand or withdraw gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, and on conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. Personal expenses of candidate

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place. 1977, c. 62, s. 103. Posting of provisions as to corrupt practices

**104.** Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1977, c. 62, s. 104. General offence

Disqualifi-  
cation of  
persons  
guilty of  
corrupt  
practice

**105.**—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

Limitation

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1). 1977, c. 62, s. 105.

#### CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

Validity of  
election,  
etc.,  
determined  
by action

**106.**—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated.

Penalties  
for corrupt  
practice

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 96 to 102.

Who may  
commence  
action

(3) Any elector entitled to vote at an election referred to in subsection (1) may commence an action under this section in relation to such election.

Time for  
commencing  
action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection (1). 1977, c. 62, s. 106.

Mode of  
trial

**107.**—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 106 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means.

Idem

(2) Subject to subsection (1) and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 106.

Judge  
without  
jury

(3) The action shall be tried by a judge without a jury. 1977, c. 62, s. 107.



**108.**—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

(2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1977, c. 62, s. 108. Idem

**109.**—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs. Abatement of action

(2) The abatement of an action does not affect any liability for costs previously incurred. Liability for costs

(3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff. 1977, c. 62, s. 109. Substitution of plaintiff

**110.** Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if, within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1977, c. 62, s. 110. Substitution for unqualified person

**111.**—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant. Successful candidate guilty of corrupt practice

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held. Unseating and seating of another elected candidate

(3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held. Where commission of corrupt practice affected result of election

Where act of  
election  
official  
affected  
result of  
election

(4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Compensation  
of candidates  
where  
election void

(5) Where a new election is to be held, the court may make such order as it considers just against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act for the compensation of candidates at the void election not exceeding \$2,000 per candidate.

Judgment  
to clerk

(6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. 1977, c. 62, s. 111.

Where  
election set  
aside and  
appeal  
entered

**112.**—(1) If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board.

Decisions  
of council  
not affected  
by reason  
of subsequent  
disqualifi-  
cation

(2) The decisions of a council reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. 1977, c. 62, s. 112.

New election  
not to be  
held pending  
appeal

**113.** A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. 1977, c. 62, s. 113.

Appeal to  
Divisional  
Court

**114.**—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Judgment  
or new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. 1977, c. 62, s. 114.

Appeal from  
decision on  
new trial

**115.** Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

Disclaimer  
before  
complaint

"I, A.B., hereby disclaim all right to the office of  
.....for the.....of  
.....in the.....of  
.....and all defence of any right I may  
have to the same. Dated.....day of  
....., 19.... A.B."

1977, c. 62, s. 115.

**116.** A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

Disclaimer  
after  
complaint

"I, A.B., upon whom a writ, authorized by the  
*Municipal Elections Act*, has been served for  
the purpose of contesting my right to the office  
of....., in the county (or district)  
of....., hereby disclaim the office, and  
all defence of any right I may have to the same.  
Dated.....day of....., 19....  
A.B."

1977, c. 62, s. 116.

**117.—(1)** A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires.

Duplicate  
of disclaimer  
to clerk

Operates as  
resignation

(2) A disclaimer in accordance with section 115 or 116 operates as a resignation. 1977, c. 62, s. 117 (1, 2).

Relief from  
costs

(3) A disclaimer in accordance with section 116 relieves the person making it from all liability for costs in an action under section 106. 1977, c. 62, s. 117 (3); 1978, c. 12, s. 7.

Procedure  
substituted  
for *quo*  
*warranto*  
proceedings

**118.** Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council or as trustee of a police village or as member of a local board, as the case may be, determined shall be had and taken only under the provisions of this Act. 1977, c. 62, s. 118.

Forms

**119.**—(1) The Minister may by order prescribe the forms required for the purposes of this Act, which forms may be in both the English and French languages.

Notices in  
French  
language

(2) Any notices required to be posted, published or mailed under this Act may, in addition to being printed in the English language, be printed in the French language.

Determina-  
tion  
by council  
of French-  
language  
forms, etc.

(3) The use in a municipality of forms prescribed in the French language under subsection (1) or the printing of notices in the French language under subsection (2) shall be determined by by-law of the council of the municipality. 1977, c. 62, s. 119.

Holidays

**120.**—(1) Subject to subsection 11 (2), where any day specified in this Act for the undertaking of any proceeding pertaining to an election falls on a holiday, the day specified shall be deemed to be the immediately preceding day which is not a Sunday or a holiday. 1977, c. 62, s. 120.

References  
to time

(2) For the purpose of any proceedings under this Act, so long as the time commonly observed in the municipality or locality where the proceedings take place is one hour in advance of standard time, the time mentioned in this Act shall be reckoned in accordance with the time so commonly observed and not standard time. 1978, c. 57, s. 3.

Limitation  
on election  
expenditures

**121.** The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services. 1977, c. 62, s. 121.



## CHAPTER 309

## Municipal Franchises Act

## 1. In this Act,

Interpre-  
tation

- (a) “franchise” includes any right or privilege to which this Act applies;
- (b) “gas” means natural gas, manufactured gas or any liquefied petroleum gas, and includes any mixture of natural gas, manufactured gas or liquefied petroleum gas, but does not include a liquefied petroleum gas that is distributed by a means other than a pipe line;
- (c) “highway” includes a street and a lane;
- (d) “public utility” includes waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1970, c. 289, s. 1.

2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof until a by-law setting forth the terms and conditions of the contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by the *Municipal Act*. R.S.O. 1970, c. 289, s. 2.

Assent to  
contracts  
for supply  
of electric  
powerR.S.O. 1980,  
c. 302

3.—(1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality except as provided in the *Municipal Act*, or to construct or operate any part of a transportation system or public utility in the municipality, or to supply to the corporation or to the inhabitants of the municipality or any of them, gas, steam or electric light, heat or power, unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors. R.S.O. 1970, c. 289, s. 3 (1).

Where assent  
required

(2) Subsection (1) does not apply to Ontario Hydro. R.S.O. 1970, c. 289, s. 3 (2); 1973, c. 57, s. 19.

Ontario  
Hydro  
exempt

(3) Where the trustees of a police village request the council of the township in which the village is situate to grant any such right with respect to the village, or where the board of

In police  
villages

trustees of a police village desire to grant such a right, it is a sufficient compliance with subsection (1) if the by-law receives the assent of the municipal electors of the village.

Renewals  
and extensions

(4) This section applies to the renewal or extension of an existing franchise. R.S.O. 1970, c. 289, s. 3 (3, 4).

Consent of  
council of  
city, when  
required

4.—(1) The council of a local municipality shall not grant a franchise upon any highway of the municipality within a radius of eight kilometres of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3. R.S.O. 1970, c. 289, s. 4 (1); 1978, c. 87, s. 41.

Gas  
franchises

(2) Where the franchise referred to in subsection (1) is a gas franchise, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of this section. R.S.O. 1970, c. 289, s. 4 (2).

Extension  
of certain  
existing  
works not  
to be made  
without  
by-law

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 3 (1), that has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 3 (1) or (3), and such consent is necessary, notwithstanding that such last-mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions  
as to  
franchises  
granted  
before 16th  
March, 1909

(2) Subsection (1) does not apply to a franchise or right granted by or under the authority of any general or special Act of the Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1970, c. 289, s. 5.

Exceptions:

6.—(1) Subject to section 2 and except as therein provided and except where otherwise expressly provided, this Act does not apply to a by-law,

- (a) granting the right of passing through the municipality for the purpose of continuing a line, work or system that is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying gas in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services; works originating in another municipality
- (b) granting the right of passing through the municipality with a line to transmit gas not intended to be distributed from such line in the municipality or only intended to be distributed from such line in the municipality to a person engaged in the transmission or distribution of gas; gas transmission lines
- (c) conferring the right to construct, use and operate works required for the transmission of oil, gas or water not intended for sale or use in the municipality; or oil, gas and waterworks
- (d) that is expressly limited in its operation to a period not exceeding three years and is approved by the Ontario Municipal Board. limited to three years

(2) Where the by-law within the meaning of clause (1) (d) is a gas franchise by-law, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of the clause. R.S.O. 1970, c. 289, s. 6. Gas franchises

7.—(1) Where a by-law to which clause 6 (1) (d) applies is passed, that clause does not apply to any subsequent by-law in respect of the same works or any part of them or to an extension of or addition to them, although the subsequent by-law is expressly limited in its operation to a period not exceeding three years, and no such subsequent by-law has any force or effect unless it is assented to by the municipal electors as provided by subsection 3 (1). Extension of franchise

(2) Notwithstanding subsection (1), clause 6 (1) (d) applies to a subsequent by-law or by-laws in respect of the same works or any part of them or to an extension of or addition to them if the period of operation of such subsequent by-law or by-laws is expressly limited so that the total period of operation of the original by-law and the subsequent by-law or by-laws does not exceed three years. R.S.O. 1970, c. 289, s. 7. Idem

Approval  
for con-  
struction of  
gas works  
or supply of  
gas in  
municipality

8.—(1) Notwithstanding any other provision in this Act or any other general or special Act, no person shall construct any works to supply or supply,

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or
- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied,

without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given.

Form of  
approval

(2) The approval of the Ontario Energy Board shall be in the form of a certificate.

Jurisdiction  
of Energy  
Board

(3) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may consider to be interested or affected and otherwise as the Board may direct. R.S.O. 1970, c. 289, s. 8.

Gas  
franchise  
by-law to be  
approved by  
Energy  
Board

9.—(1) No by-law granting,

- (a) the right to construct or operate works for the distribution of gas;
- (b) the right to supply gas to a municipal corporation or to the inhabitants of a municipality;
- (c) the right to extend or add to the works mentioned in clause (a) or the services mentioned in clause (b); or
- (d) a renewal of or an extension of the term of any right mentioned in clause (a) or (b),

shall be submitted to the municipal electors for their assent unless the terms and conditions upon which and the period for which such right is to be granted, renewed or extended have first been approved by the Ontario Energy Board.

Jurisdiction  
of Energy  
Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval.



(3) The Ontario Energy Board shall not make an order granting its approval under this section until after the Board has held a public hearing to deal with the matter upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct.

Hearing to  
be held

(4) The Board, after holding a public hearing upon such notice as the Board may direct and if satisfied that the assent of the municipal electors can properly under all the circumstances be dispensed with, may in any order made under this section declare and direct that the assent of the electors is not necessary. R.S.O. 1970, c. 289, s. 9.

Electors'  
assent may  
be dispensed  
with

**10.**—(1) Where the term of a right referred to in clause 6 (1) (a), (b) or (c) that is related to gas or of a right to operate works for the distribution of gas or to supply gas to a municipal corporation or to the inhabitants of a municipality has expired or will expire within one year, either the municipality or the party having the right may apply to the Ontario Energy Board for an order for a renewal of or an extension of the term of the right. R.S.O. 1970, c. 289, s. 10 (1); 1974, c. 59, s. 1.

Application  
to Energy  
Board for  
renewal, etc.,  
of gas  
franchise

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and, if public convenience and necessity appear to require it, may make an order renewing or extending the term of the right for such period of time and upon such terms and conditions as may be prescribed by the Board, or if public convenience and necessity do not appear to require a renewal or extension of the term of the right, may make an order refusing a renewal or extension of the right.

Powers of  
Energy  
Board

(3) The Board shall not make an order under subsection (2) until after the Board has held a public hearing upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct.

Hearing

(4) Notwithstanding subsection (3), where an application has been made under subsection (1) and the term of the right has expired or is likely to expire before the Board disposes of the application, the Board, on the written request of the applicant, and without holding a public hearing, may make such order as may be necessary to continue the right until an order is made under subsection (2). R.S.O. 1970, c. 289, s. 10 (2-4).

Interim  
order

(5) An order of the Board heretofore or hereafter made under subsection (2) renewing or extending the term of the right or an

Order deemed  
by-law  
assented to  
by electors

order of the Board under subsection (4) shall be deemed to be a valid by-law of the municipality concerned assented to by the municipal electors for the purposes of this Act and of section 57 of the *Public Utilities Act*. 1979, c. 83, s. 1.

R.S.O. 1980,  
c. 420

Right  
expired  
before  
commence-  
ment of  
section

(6) An application may not be made under this section in respect of a right that has expired before the 2nd day of December, 1969. R.S.O. 1970, c. 289, s. 10 (6).

Appeal

**11.** With leave of a judge thereof, an appeal lies upon any question of law or fact to the Divisional Court from any certificate granted under section 8 or any order made under section 9 or 10 if application for leave to appeal is made within fifteen days from the date of the certificate or order, as the case may be, and the rules of practice of the Supreme Court apply to any such appeal. R.S.O. 1970, c. 289, s. 11.

## CHAPTER 310

## Municipal Health Services Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Health Services Board;
- (b) "Minister" means the Minister of Health;
- (c) "municipal health services" has the meaning prescribed in the regulations;
- (d) "municipality" means a local municipality as defined in the *Municipal Act* and includes an improvement district and a school section in an unorganized township or unsurveyed territory. R.S.O. 1970, c. 290, s. 1. R.S.O. 1980,  
c. 302

2.—(1) The council of a municipality or the councils of two or more municipalities that have entered into an agreement therefor may by by-law provide for the establishment of a plan of municipal health services for the municipality or municipalities. Plan of  
health  
services

(2) No agreement shall be entered into and no by-law shall be introduced under this section until the plan provided for therein has been approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 290, s. 2. Approval of  
Lieutenant  
Governor  
in Council

3.—(1) No by-law passed and approved under section 2 comes into force or has effect until the proposed plan has been submitted, either at the next municipal election or at such time as the council or councils may decide, to a vote as provided in this section. Vote on  
by-law

(2) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be borne by a special rate imposed on the rateable property in the municipality, the proposed plan shall be submitted to a vote of the persons entitled to vote on money by-laws and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established. where  
property tax

(3) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be where  
personal tax

borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established.

where  
both taxes

(4) Where part of the cost of the proposed plan is to be borne by a special rate imposed on the rateable property in the municipality, and the balance of the cost, except any portion that is to be borne by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and to a further vote of persons entitled to vote on money by-laws and unless a majority of the municipal electors so voting and a majority of the persons entitled to vote on money by-laws so voting are in favour of the proposed plan, the plan shall not be established. R.S.O. 1970, c. 290, s. 3.

Board

4.—(1) There shall be a board known as the Ontario Municipal Health Services Board which is a body corporate and shall consist of not fewer than seven and not more than ten members who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman

(2) The Board shall appoint one of its members to be chairman.

Powers and  
duties

(3) The powers and duties of the Board shall be defined in the regulations and, subject to the approval of the Lieutenant Governor in Council, the Board may,

(a) enter into an agreement with any municipality that has enacted a by-law under section 2; and

(b) enter into an agreement with any person or with any medical, hospital or other association, corporate or otherwise, for the provision of municipal health services for any municipality that has entered into an agreement with the board.

Receiving  
and dis-  
bursement  
of moneys

(4) The Board may receive from any municipality that has enacted a by-law under section 2 all moneys collected by the municipality for the purpose of providing municipal health services and may disburse such moneys for the purpose of securing the provision of municipal health services and any expenses incidental thereto. R.S.O. 1970, c. 290, s. 4.

Municipal  
committee

5. The council of any municipality that has enacted a by-law under section 2 may appoint a committee of its members, or of other persons, which shall consist of not fewer than three and not more than five members, and the committee shall



assist and advise the council in respect of any matter arising under this Act. R.S.O. 1970, c. 290, s. 5.

**6.**—(1) For the purposes of carrying out the provisions of Personal tax any by-law under this Act, the council of a municipality may levy and collect a personal tax in respect of every male and female resident in the municipality who is seventeen years of age or over. R.S.O. 1970, c. 290, s. 6 (1).

(2) The parent of a dependent child who is seventeen years of age is liable for the payment of the tax in respect of such Liability of parent and husband child and a husband is liable for the payment of the tax in respect of his wife. R.S.O. 1970, c. 290, s. 6 (2); 1971, c. 98, s. 17.

(3) Every person liable to pay a personal tax shall pay the Time for payment tax to the treasurer of the municipality within one week of the date upon which the tax becomes due and payable under the by-law providing therefor, and in case of neglect or refusal to make such payment the collector may levy the amount of the tax and costs of distress by distress and sale of the goods and chattels of such person.

(4) The assessment commissioner of the municipality may Returns from employers require any employer, whether the business of such employer is situate within or outside the municipality, to furnish him with a list of those of his employees who are resident within the municipality, and of the dates upon which they are paid their salary or wages, and every such employer shall advise the assessment commissioner of any changes therein that may occur.

(5) The treasurer of the municipality may require any employer, whether the business of such employer is situate within or outside the municipality, to deduct from the salary or wages of all employees residing within the municipality the amounts that are payable to the municipality under this section and to pay such amounts to the municipality, and in the event that the employer fails or neglects to comply with such requirement he is personally liable for the amounts so payable. R.S.O. 1970, c. 290, s. 6 (3-5). Deduction by employer

**7.** For the purpose of carrying out the provisions of any Property tax by-law under this Act, the council of a municipality may levy and collect a special rate upon all the rateable property within the municipality and all the provisions of the *Municipal Act* R.S.O. 1980, c. 302 applicable to the levying and collecting of local rates apply to the special rate levied under this Act. R.S.O. 1970, c. 290, s. 7.

**8.**—(1) In a municipality in which a plan has been adopted, Assessment rolls the assessment commissioner shall include in the assessment roll

the name of every person who is a resident of the municipality within the meaning of the regulations and where part of the cost of the plan is to be borne by a personal tax the assessor shall enter after the name of every person who is liable to such tax the letters "P.T."

Idem

(2) Where the council of a municipality passes a resolution favouring the establishment of a plan of municipal health services, the council may direct the assessment commissioner to comply with the requirements of subsection (1) in the preparation of the next assessment roll. R.S.O. 1970, c. 290, s. 8.

Amount  
of taxes  
payable  
to Board

**9.** A municipality shall pay to the Board an amount equal to the total levy made under section 6 or 7, or both, at such times as may be required by the regulations. R.S.O. 1970, c. 290, s. 9.

No liability  
to county

**10.** A municipality that has established a plan of municipal health services that includes hospital care under this Act is not required to contribute to any levy made by a county for the costs of providing hospital care for indigent persons who are residents of the county. R.S.O. 1970, c. 290, s. 10.

Unorganized  
territory

**11.** The Lieutenant Governor in Council may make provision for furnishing municipal health services to the residents of any area that is without municipal organization and does not form part of a school section. R.S.O. 1970, c. 290, s. 11.

Contri-  
butions by  
Province

**12.** The Lieutenant Governor in Council may provide for the making of annual or other contributions to any municipality that has passed a by-law under this Act. R.S.O. 1970, c. 290, s. 12.

Consolidated  
Revenue  
Fund

**13.** Expenses incurred under section 11 and contributions made under section 12 shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 290, s. 13.

Further vote  
on plan

**14.** At the first municipal election held after the termination of a period of three years from the date of the commencement of a plan for municipal health services, the plan shall again be submitted to a vote as in section 3 provided and shall not continue in force unless a majority of the persons voting as prescribed in section 3 are in favour thereof. R.S.O. 1970, c. 290, s. 14.

Alteration  
of plan

**15.—(1)** A plan for municipal health services established under this Act shall not be altered or terminated except with the like approval as required by section 2.

(2) A by-law made under this Act shall be amended or <sup>Amendment of by-law</sup> repealed only with the like vote as is required for a by-law made under section 3.

(3) The Lieutenant Governor in Council may terminate any <sup>Termination of plan</sup> plan for municipal health services and thereupon every by-law and agreement relating thereto shall be deemed to be revoked and terminated. R.S.O. 1970, c. 290, s. 15.

**16.** Where a scheme is terminated, the Lieutenant Governor <sup>Termination of plan, moneys on hand</sup> in Council may provide for the disposition and application of any moneys collected under the provisions of this Act that are not required for the purpose of the plan. R.S.O. 1970, c. 290, s. 16.

**17.** Subject to the approval of the Lieutenant Governor <sup>Regulations</sup> in Council, the Minister may make regulations which may be general or particular in their application,

- (a) respecting the establishment of municipal health services;
- (b) defining "municipal health services" and prescribing the type of service and the maximum services that may be provided under any plan;
- (c) defining the powers and duties of the Board and providing for the employment of assistants and the payment of the expenses of the Board out of such moneys as may come into its hands;
- (d) governing the amount and conditions of payment of provincial contributions;
- (e) defining the term "resident";
- (f) prescribing the periods within which a resident is liable for the payment of the rates and taxes imposed under this Act and the periods during which a resident is entitled to municipal health services in the municipality;
- (g) prescribing the dates upon which any rates or taxes levied in the municipality shall become due and payable and the manner in which they shall be paid;
- (h) providing for the exemption from taxation of any class of persons who are dependent in whole or in part upon contributions from public funds for their maintenance;

- (i) providing for the cancellation or reduction of the taxes of any person who from sickness or extreme poverty is unable to pay the taxes;
  - (j) providing for the exemption from any tax imposed by this Act, or any portion thereof, of any class or group of persons who contribute to a plan for the provision of medical services or health services;
  - (k) providing for the exemption of duly accredited members and adherents of any religious denomination designated by the regulations from any tax imposed under section 6 and from any tax imposed under section 7 in respect of such portion of any premises as may be owned and occupied as a residence by any such member or adherent, upon such terms and conditions as may be prescribed;
  - (l) providing for the cancellation or reduction of the taxes of any person who by reason of any gross or manifest error has been charged or overcharged;
  - (m) providing for the appointment of inspectors and prescribing their powers and duties;
  - (n) requiring the Board to report to the Minister;
  - (o) prescribing forms and providing for their use;
  - (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 290, s. 17.



## CHAPTER 311

## Municipal Tax Assistance Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Crown agency" means an agency of the Crown in right of Ontario, but does not include Ontario Hydro;
- (c) "highways" means highways, docks, ferries, wharfs, parking lots in connection therewith, land held to provide clear view at road junctions and railroad crossings, and land acquired and held for future highways;
- (d) "Ministry" means the Ministry of Intergovernmental Affairs;
- (e) "municipality" means a city, town, village, township or improvement district;
- (f) "provincial property" means real property owned by the Crown in right of Ontario or by any Crown agency, but does not include property owned or held in trust by Ontario Hydro;
- (g) "rates levied for general municipal purposes" includes all levies upon real property made by a municipality except levies for school purposes and levies on business assessment;
- (h) "real property" includes buildings and structures erected thereon. R.S.O. 1970, c. 292, s. 1; 1972, c. 3, s. 17 (2); 1973, c. 57, s. 19.

2.—(1) Nothing in this Act confers a right to a payment. Limitation

(2) Nothing in this Act authorizes a municipality to levy <sup>Idem</sup> taxes on provincial property or against the Crown in right of Ontario or any Crown agency. R.S.O. 1970, c. 292, s. 2.

3.—(1) This Act does not apply to unpatented lands, public <sup>Exception</sup> lands set apart as a wilderness area, provincial property used for park purposes including the buildings in the parks, hospitals,

penal institutions, educational institutions, museums and libraries, highways, correctional institutions, cemeteries, minerals, farms operated by institutions, experimental and demonstration farms, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property subject to municipal taxation under section 17 of the *Assessment Act*, or any provincial property for which, in the opinion of the Minister of Intergovernmental Affairs, municipal services are not available. R.S.O. 1970, c. 292, s. 3 (6); 1972, c. 3, s. 17 (1); 1975, c. 33, s. 1 (2).

R.S.O. 1980,  
c. 31

Minister's  
decision

(2) The decision of the Minister of Intergovernmental Affairs as to whether this Act applies to any provincial property is final. R.S.O. 1970, c. 292, s. 3 (7); 1972, c. 3, s. 17 (1).

Payments

4.—(1) The Ministry, in respect of provincial property owned by the Crown in right of Ontario and not occupied by a Crown agency, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality would produce on the value of such provincial property. R.S.O. 1970, c. 292, s. 5 (1); 1975, c. 33, s. 3 (1).

Idem

(2) Every Crown agency, in respect of provincial property owned or occupied by it, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality would produce on the value of such provincial property. R.S.O. 1970, c. 292, s. 5 (2); 1975, c. 33, s. 3 (2).

Business

(3) Where the Crown in right of Ontario or any Crown agency occupies or uses land for the purpose of, or in connection with any business, the Ministry or the Crown agency, as the case may be, may pay to the municipality in which the land is situate the amount that the current rates for general municipal purposes on business assessment would produce in respect of the carrying on of such business on the land.

Idem

(4) For the purposes of subsection (3), the legislative, executive and administrative activities of the Government of Ontario shall not be deemed to be the carrying on of a business. R.S.O. 1970, c. 292, s. 5 (3, 4).

Local  
improve-  
ment and  
drainage  
assessments  
R.S.O. 1980,  
cc. 250, 126

(5) Notwithstanding subsection 3 (1), sections 62 and 63 of the *Local Improvement Act* and subsection 61 (5) of the *Drainage Act*,

the Ministry or the Crown agency may pay local improvement and drainage assessments in respect of any provincial property. R.S.O. 1970, c. 292, s. 5 (5).

(6) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges imposed under section 218 of the *Municipal Act*. Sewer and waterworks rates  
R.S.O. 1980, c. 302

(7) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges imposed under paragraph 85 of section 210 of the *Municipal Act*. Garbage rates

(8) A Crown agency that operates a telephone and telegraph system may, in respect of the system, pay the tax levied under section 161 of the *Municipal Act*. 1975, Telephone and telegraph company taxes c. 33, s. 3 (3).

5. Notwithstanding subsections 4 (1) and (2), the Ministry may make a payment under this Act on behalf of another ministry or a Crown agency and such payment may be recovered by the Ministry from the ministry or Crown agency on whose behalf such payment was made. 1975, c. 33, s. 4. Payment by Ministry

6.—(1) In respect of provincial property owned and occupied by the Crown in right of Ontario, the moneys required for the purposes of this Act are payable out of the moneys appropriated therefor by the Legislature. Funds for payments

(2) In respect of provincial property owned or occupied by a Crown agency, the moneys required for the purposes of this Act are payable out of the funds of the agency. R.S.O. 1970, c. 292, s. 6. Idem

7. The provisions of this Act apply notwithstanding anything in any other general or special Act or any agreement heretofore made. R.S.O. 1970, c. 292, s. 7. Application of Act





## CHAPTER 312

## Municipal Unemployment Relief Act

**1.** In this Act, “municipality” means a city, town, village, township and county, and includes a metropolitan, regional and district municipality. 1971 (2nd Sess.), c. 4, s. 1.

Interpre-  
tation

**2.** Every municipality may, by agreement with the owner of private property, enter on such property and expend moneys thereon for the purpose of implementing any plan that is approved by the Ministry of Intergovernmental Affairs for the relief of unemployment in the municipality. 1971 (2nd Sess.), c. 4, s. 2; 1972, c. 3, s. 17 (2).

Expenditure of  
moneys and  
entry on  
private  
property



## CHAPTER 313

## Municipal Works Assistance Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Intergovernmental Affairs;
- (b) "Municipal Development and Loan Board" means the Municipal Development and Loan Board established under the *Municipal Development and Loan Act* (Canada); <sup>1963, c. 13 (Can.)</sup>
- (c) "municipality" means a metropolitan municipality, city, town, village, township, improvement district or county, or a school board that has authority to raise money by the issue of debentures. R.S.O. 1970, c. 294, s. 1; 1972, c. 3, s. 17 (1).

2. The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into an agreement with the Municipal Development and Loan Board as contemplated in subsection 7 (2) of the *Municipal Development and Loan Act* (Canada). R.S.O. 1970, c. 294, s. 2.

Agreement  
authorized

3.—(1) The Minister may exercise such powers and responsibilities as are necessary to carry out the terms of the agreement entered into under section 2, and, without limiting the generality of the foregoing, he may, on behalf of the Government of Ontario,

Powers of  
Minister

- (a) make all necessary arrangements for the borrowing of moneys from the Municipal Development and Loan Board, in amounts not exceeding in the aggregate the amount fixed by the *Municipal Development and Loan Act* (Canada), for the purpose of making loans to municipalities in accordance with the terms of the agreement;
- (b) make loans to municipalities in respect of municipal projects in accordance with the terms of the agreement and take, hold, pledge or otherwise dispose of debentures, bonds or other securities given by municipalities in respect of such loans; and

- (c) forgive the repayment of a portion of any loan made to a municipality to the same extent as repayment is forgiven to Ontario by the Municipal Development and Loan Board.

Municipal  
projects  
1963, c. 13  
(Can.)

(2) For the purposes of this Act and the *Municipal Development and Loan Act* (Canada), a municipal project includes a capital work of a school board in respect of which the school board or a metropolitan municipality, city, town, village, township, improvement district or county has authority to raise money by the issue of debentures. R.S.O. 1970, c. 294, s. 3.

Borrowing  
powers  
R.S.O. 1980,  
c. 161

4.—(1) The Lieutenant Governor in Council may borrow or raise by way of loan in the manner provided by the *Financial Administration Act* such sums as he may consider requisite for the purposes of this Act and of the agreement entered into under section 2.

Idem

(2) Bonds, debentures or other securities to be issued by the Lieutenant Governor in Council may be issued and delivered from time to time by the Treasurer of Ontario to the Municipal Development and Loan Board in respect of or in payment for loans made to the Province by the Municipal Development and Loan Board pursuant to the agreement. R.S.O. 1970, c. 294, s. 4.

Moneys  
borrowed  
in addition  
to borrowing  
under other  
Acts

5. The moneys that may be borrowed or raised by way of loan and the bonds, debentures and other securities that may be issued by the Government of Ontario for the purposes mentioned in this Act are in addition to all sums of money that may be borrowed or raised by way of loan and all bonds, debentures and other securities that may be issued under any other Act. R.S.O. 1970, c. 294, s. 5.

Moneys  
required  
for Act

6. The moneys required for the purposes of this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 294, s. 6.

Regulations

7. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 294, s. 7.



## CHAPTER 314

### Municipality of Metropolitan Toronto Act

#### INTERPRETATION

**1. In this Act,**

Interpre-  
tation

- (a) “area municipality” means the municipality or corporation of the Borough of East York, the Borough of Etobicoke, the City of North York, the Borough of Scarborough, the City of Toronto or the Borough of York;
- (b) “bridge” means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) “chairman” means the chairman of the Metropolitan Council;
- (d) “debt” includes obligation for the payment of money;
- (e) “highway” and “road” mean a common and public highway, and include a street, bridge, and any other structure incidental thereto;
- (f) “land” includes lands, tenements and hereditaments, and any estate or interest therein, and any right of easement affecting them, and land covered with water, and includes any buildings or improvements on land;
- (g) “local board” means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Metropolitan Corporation or of an area municipality or of two or more area municipalities or portions thereof;

- (h) "Metropolitan Area" means the area from time to time included within the Borough of East York, the Borough of Etobicoke, the City of North York, the Borough of Scarborough, the City of Toronto and the Borough of York;
- (i) "Metropolitan Corporation" means The Municipality of Metropolitan Toronto;
- (j) "Metropolitan Council" means the council of the Metropolitan Corporation;
- (k) "metropolitan road" means a road forming part of the metropolitan road system established under Part VI;
- (l) "Minister" means the Minister of Intergovernmental Affairs;
- (m) "Ministry" means the Ministry of Intergovernmental Affairs;
- (n) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money, other than a by-law passed under section 222;
- (o) "Municipal Board" means the Ontario Municipal Board;
- (p) "roadway" means that part of the highway designed or intended for use by vehicular traffic. R.S.O. 1970, c. 295, s. 1; 1972, c. 3, s. 17; O. Reg. 46/79.

## PART I

### INCORPORATION AND COUNCIL

Metropolitan  
Corporation  
continued

**2.—(1)** The inhabitants of the Metropolitan Area are hereby continued a body corporate under the name of "The Municipality of Metropolitan Toronto". R.S.O. 1970, c. 295, s. 2 (1).

Deemed  
municipality  
under  
R.S.O. 1980,  
cc. 303, 347

**(2)** The Metropolitan Corporation shall be deemed to be a municipality for the purposes of the *Municipal Affairs Act* and the *Ontario Municipal Board Act*. R.S.O. 1970, c. 295, s. 2 (2); 1972, c. 1, s. 104 (6).

(3) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of the *Expropriations Act*. R.S.O. 1970, c. 295, s. 2 (4).

Deemed  
municipality  
under  
R.S.O. 1980,  
c. 148

**3.**—(1) The powers of the Metropolitan Corporation shall be exercised by the Metropolitan Council and, except where otherwise provided, the jurisdiction of the Metropolitan Council is confined to the Metropolitan Area.

Council  
to exercise  
corporate  
powers

(2) Except where otherwise provided, the powers of the Metropolitan Council shall be exercised by by-law.

By-laws

(3) A by-law passed by the Metropolitan Council in the exercise of any of its powers and in good faith shall not be open to question, or be quashed, set aside or declared invalid either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. R.S.O. 1970, c. 295, s. 3.

Not to be  
quashed as  
unreasonable

**4.**—(1) In every area municipality, election of candidates for council and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1980 and in every second year thereafter in accordance with the *Municipal Elections Act*. 1972, c. 168, s. 1 (1).

Election  
of council

R.S.O. 1980,  
c. 308

(2) The members of council and of such local boards shall hold office for a two-year term and until their successors are elected and the new council or board is organized. 1972, c. 168, s. 1 (3).

Term of  
office

(3) This section applies to members of the Metropolitan Separate School Board. R.S.O. 1970, c. 295, s. 4 (5).

Metropolitan  
Separate  
School  
Board

**5.**—(1) On and after the 1st day of December, 1980, the area municipalities are entitled to the following membership on the Metropolitan Council:

Metropolitan  
Council  
membership

the Borough of East York	— 2 members
the Borough of Etobicoke	— 5 members
the City of North York	— 10 members
the Borough of Scarborough	— 7 members
the City of Toronto	— 12 members
the Borough of York	— 3 members

1980, c. 39, s. 1.

## Composition

(2) In accordance with the membership to which an area municipality is entitled under subsection (1), the Metropolitan Council shall include the mayor of each area municipality and, subject to subsection (3),

(a) where an area municipality has a board of control,

(i) the controllers, or

(ii) if the number of members, exclusive of the mayor, to which the area municipality is entitled is less than the number of controllers, the number of controllers equal to the number necessary to complete the membership to which the area municipality is entitled who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes, the next greatest, and so on, as the case requires, or

(iii) if the area municipality is entitled to a greater number of members than the mayor and the other members of the board of control, the controllers and such number of aldermen appointed by the council of the area municipality as is necessary to complete the membership to which the area municipality is entitled; or

(b) where the area municipality does not have a board of control, such number of aldermen appointed by the council of the area municipality as is necessary to complete the membership on the Metropolitan Council to which the area municipality is entitled.

Where wards  
equal to  
number of  
aldermen  
to be  
appointed

(3) Where the number of wards in an area municipality is equal to the number of aldermen to be appointed by the council of such area municipality,

(a) the alderman for each ward; or

(b) if there is more than one alderman for each ward, the alderman for each ward who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes in such ward,

shall be members of the Metropolitan Council in lieu of the aldermen to be appointed.



(4) If, after any election in an area municipality, by reason of acclamation or an equality of votes, it cannot be determined which controller, or controllers, or alderman, or aldermen, is, or are, entitled to be a member, or members, of the Metropolitan Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the Metropolitan Council. 1974, c. 42, s. 1, *part*.

Acclamation  
or equality  
of votes

(5) At the first meeting of the Metropolitan Council in each year after a regular election at which a quorum is present, the Metropolitan Council shall organize as a council and elect as chairman one of the members of the Metropolitan Council, or any other person, to hold office for the term of the council and until his successor is appointed or elected in accordance with this Act. 1978, c. 35, s. 1 (1).

Election of  
chairman

(6) The clerk of the Metropolitan Corporation shall preside at each such first meeting or, if there is no clerk, the members present shall select a member to preside, and the person so selected may vote as a member. 1974, c. 42, s. 1, *part*.

Clerk to  
preside

(7) If, at such first meeting after a regular election, a chairman is not elected, the presiding officer may adjourn the meeting from time to time, and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint a chairman to hold office for the term of the council and until his successor is elected or appointed in accordance with this Act. 1978, c. 35, s. 1 (2).

Adjourn-  
ment

(8) The Metropolitan Council shall be composed of the chairman and the persons who are members pursuant to this Part.

Composition

(9) A resignation from the Metropolitan Council or the council of an area municipality by a person who is a member of both councils shall be deemed to be a resignation from both the Metropolitan Council and the council of the area municipality. 1974, c. 42, s. 1, *part*.

Resignation

**6.—**(1) The first meeting of the Metropolitan Council after a regular election shall be held after the councils of the area municipalities have held their first meetings under subsection (2), but in any event not later than the fourteenth day following the day on which the term of office in respect of which the election was held commences, on such date and at such time and place as may be fixed by by-law of the Metropolitan Council.

First  
meeting of  
Metro-  
politan  
Council

First  
meeting  
of area  
councils

(2) Notwithstanding any other general or special Act, the first meeting of the council of each area municipality after a regular election shall be held not later than the seventh day following the day on which the term of office in respect of which the election was held commences. 1978, c. 35, s. 2.

Certificate of  
qualification

(3) A person entitled to be a member of the Metropolitan Council under subsection 5 (2) or (3) shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the clerk of the area municipality for which he was elected and under the seal of the area municipality certifying that he is entitled to be a member under such subsection.

Oath of  
allegiance

(4) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 5 (2) or (3), he shall, before taking his seat, take an oath of allegiance in Form 1 and a declaration of qualification in Form 2. R.S.O. 1970, c. 295, s. 6 (3, 4).

Declaration  
of office  
R.S.O. 1980,  
c. 302

(5) No business shall be proceeded with at the first meeting until after the declarations of office in Form 3 of the *Municipal Act* have been made by all members who present themselves for that purpose. 1973, c. 48, s. 1.

When  
Council  
deemed  
organized

(6) The Metropolitan Council shall be deemed to be organized when the declarations of office have been made by at least eleven members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. R.S.O. 1970, c. 295, s. 6 (6).

Place of  
meetings

7. Subject to section 6, all meetings of the Metropolitan Council shall be held at such place within the Metropolitan Area and at such times as the Metropolitan Council from time to time appoints. R.S.O. 1970, c. 295, s. 7.

Quorum,  
voting

8.—(1) Eleven members of the Metropolitan Council are necessary to form a quorum, and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

Votes

(2) Each member of the Metropolitan Council, except the chairman, has one vote only, and the chairman does not have a vote except in the event of an equality of votes. R.S.O. 1970, c. 295, s. 8.

Term of  
office

9. The members of the Metropolitan Council, other than the chairman, hold office while they hold the offices that entitled them to such membership or to appointment to such

membership and until their successors take office and a new Metropolitan Council is organized. R.S.O. 1970, c. 295, s. 9.

**10.**—(1) When a vacancy occurs in the office of a chairman <sup>Vacancies, chairman</sup> who has been appointed by the Lieutenant Governor in Council, a person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor.

(2) When a vacancy occurs in the office of a chairman who has <sup>Idem</sup> been elected under subsection 5 (5), the Metropolitan Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman, who may be one of the members of the Metropolitan Council or any other person, to hold office for the remainder of the term of his predecessor.

(3) If the Metropolitan Council fails to elect a chairman <sup>Idem</sup> within twenty days as required by subsection (2), the Lieutenant Governor in Council may appoint a person as chairman to hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 295, s. 10 (1-3).

(4) When a vacancy occurs in the office of a member other <sup>Other members</sup> than the chairman or a member who held office by reason of being a mayor, the council of the area municipality, of which he was a member, shall within sixty days after the vacancy occurs appoint his successor to hold office for the remainder of the term of his predecessor, provided that, if he held office by reason of being a controller, another controller shall be appointed or, if he held office under subsection 5 (2) by reason of being an alderman, another alderman shall be appointed or, if he held office under subsection 5 (3) by reason of being an alderman for a ward, another alderman for such ward shall be appointed. R.S.O. 1970, c. 295, s. 10 (4); 1976, c. 42, s. 1.

(5) Where a member of the council of an area municipality becomes chairman, he shall be deemed to have resigned <sup>Resignation of chairman</sup> as a member of such council, and his seat on such council thereby becomes vacant.

(6) The seat of a member of the Metropolitan Council becomes vacant if he absents himself continuously from the meetings of the Metropolitan Council during a period of one month without being authorized so to do by a resolution of the Metropolitan Council entered upon its minutes, and the Metropolitan Council shall forthwith declare the seat to be vacant, and, notwithstanding subsection (4), the council of the area municipality of which he is a member may appoint any one of its members as his successor. R.S.O. 1970, c. 295, s. 10 (5, 6). <sup>Vacancy due to absence from meetings</sup>

Executive  
Committee

**11.**—(1) There shall be an Executive Committee of the Metropolitan Council composed of,

- (a) the chairman;
- (b) the mayor of each area municipality;
- (c) the member of the board of control of the Borough of Etobicoke who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes;
- (d) the two members of the board of control of the City of North York who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes;
- (e) the member of the board of control of the Borough of Scarborough who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes; and
- (f) three alderman members of the Executive Committee of the City of Toronto who are members of the Metropolitan Council appointed by the council of the City of Toronto. 1974, c. 42, s. 2, *part.*

Acclamation  
or equality  
of votes

(2) If, after any election in an area municipality, by reason of acclamation or an equality of votes, it cannot be determined which controller or controllers is or are entitled to be a member or members of the Executive Committee, the matter shall be determined by resolution of the council of the area municipality. 1974, c. 114, s. 1.

## Chairman

(3) The chairman of the Metropolitan Council shall be the chairman of the Executive Committee and entitled to vote as a member thereof.

## Quorum

(4) Six members of the Executive Committee constitute a quorum.

Powers  
R.S.O. 1980,  
c. 302

(5) The Executive Committee has all the powers and duties of a board of control under subsections 71 (1) and (2) of the *Municipal Act*, and subsections (3) to (16) and (18) and (19) of that section apply with necessary modifications. 1974, c. 42, s. 2, *part.*



(6) An alderman entitled to be a member of the Executive Committee under subsection (1) shall not take his seat on the Executive Committee until he has filed with the person presiding at the first meeting a certificate under the hand of the clerk of the City of Toronto certifying that he is a member of the Executive Committee of the City of Toronto appointed by the council of the city as a member of the Executive Committee.

Certificate of qualification

(7) Where a seat on the Executive Committee becomes vacant by the death or resignation of a member who was a borough or city controller, the vacancy shall be filled by the controller from the same borough or city who received the next greatest number of votes. 1974, c. 42, s. 2, *part*.

Vacancy

**12.**—(1) The Metropolitan Council may by by-law authorize the Executive Committee for such period or periods of time and upon such terms and conditions as the by-law specifies to sell land which the Metropolitan Council has declared to be no longer required for the purposes of the Metropolitan Corporation.

Sale of surplus land

(2) Section 195 of the *Municipal Act* applies with necessary modifications to the Executive Committee in the exercise of an authority provided for in subsection (1).

Application of R.S.O. 1980, c. 302, s. 195

(3) The Executive Committee shall report each sale made under subsection (1) to the Metropolitan Council not later than the second regular meeting of the Metropolitan Council next following the closing of each sale. 1980, c. 39, s. 2.

Report

**13.** The Metropolitan Council may from time to time establish such standing or other committees, and assign to them such duties, as it considers expedient. R.S.O. 1970, c. 295, s. 13 (1).

Committees of Council

**14.** The Metropolitan Council may pass by-laws for governing the proceedings of the Metropolitan Council and any of its committees, the conduct of its members and the calling of meetings. R.S.O. 1970, c. 295, s. 14.

Procedure by-laws

**15.** The chairman is the head of the Metropolitan Council and the chief executive officer of the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 15.

Who to be head of Council

**16.**—(1) The Metropolitan Council may by by-law appoint a chief administrative officer, who,

Chief administrative officer

- (a) shall have such general control and management of the administration of the government and affairs of the Metropolitan Corporation and perform such duties as the Metropolitan Council by by-law prescribes;

- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;
- (c) shall hold office during the pleasure of the Metropolitan Council; and
- (d) shall receive such salary as the Metropolitan Council by by-law determines.

Application of  
R.S.O. 1980,  
c. 302, s. 99 (2)

(2) Subsection 99 (2) of the *Municipal Act* applies to a chief administrative officer appointed under subsection (1) of this section. 1974, c. 42, s. 3.

Application  
of  
R.S.O. 1980,  
c. 302

**17.**—(1) Sections 57, 58, 60, 62, 63, 65, subsection 85 (1), sections 107, 129, 137 to 141, 206, 207, paragraphs 48 and 49 of section 208, and sections 238 to 244, 247 to 250 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation. 1980, c. 39, s. 3.

Idem

(2) Sections 55, 59, 64 and 72 (2) and (3) of the *Municipal Act* apply with necessary modifications to the Metropolitan Council and to every local board of the Metropolitan Corporation. 1973, c. 48, s. 3.

Appointment  
of clerk, and  
his duties

**18.**—(1) The Metropolitan Council shall appoint a clerk, whose duty it is,

- (a) to record truly in a book, without note or comment, all resolutions, decisions and other proceedings of the Metropolitan Council;
- (b) when a recorded vote is requested by a member, to record the name and vote of every member voting on any matter or question;
- (c) to preserve and file all accounts acted upon by the Metropolitan Council;
- (d) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the Metropolitan Council and its committees; and
- (e) to perform such other duties as may be assigned to him by the Metropolitan Council.

Deputy clerk

(2) The Metropolitan Council may appoint a deputy clerk who shall have all the powers and duties of the clerk.

Acting clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise,

the Metropolitan Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. R.S.O. 1970, c. 295, s. 18.

**19.**—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in section 18 and the minutes and proceedings of any committee of the Metropolitan Council, whether the acts of the committee have been adopted or not, and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the Metropolitan Corporation, to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix.

Minutes,  
etc., to be  
open to  
inspection  
and copies  
to be  
furnished

(2) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be certified under his hand and the seal of the Metropolitan Corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1970, c. 295, s. 19.

Copies  
certified by  
clerk to be  
receivable  
in evidence

**20.**—(1) The Metropolitan Council shall appoint a treasurer who shall keep the books, records and accounts of the Metropolitan Corporation and who shall perform such other duties as may be assigned to him by the Metropolitan Council.

Treasurer

(2) The Metropolitan Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer.

Deputy  
treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the Metropolitan Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. R.S.O. 1970, c. 295, s. 20.

Acting  
treasurer

**21.**—(1) The treasurer shall receive and safely keep all money of the Metropolitan Corporation, and shall pay out the same to such persons and in such manner as the law of Ontario and the by-laws or resolutions of the Metropolitan Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the Metropolitan Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

To receive  
and take  
care of and  
disburse  
money, etc.

Alternative  
method of  
signing  
cheques

(2) Notwithstanding subsection (1), the Metropolitan Council may by by-law designate one or more persons to sign cheques in lieu of the treasurer and may by by-law provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written, stamped, lithographed, or engraved on cheques. R.S.O. 1970, c. 295, s. 21 (1, 2).

When  
member of  
Council may  
be paid  
for work

(3) Except where otherwise expressly provided by this Act, a member of the Metropolitan Council shall not receive any money from the treasurer for any work or service performed or to be performed, but nothing in this subsection prevents the payment of any moneys under any contract in respect of which the member has complied with section 2 of the *Municipal Conflict of Interest Act*. R.S.O. 1970, c. 295, s. 21 (3); 1973, c. 48, s. 4.

R.S.O. 1980,  
c. 305

Treasurer's  
liability  
limited

(4) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the Metropolitan Council, unless another disposition of it is expressly provided for by statute.

Bank  
accounts

(5) The treasurer shall open an account or accounts in the name of the Metropolitan Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the Metropolitan Council and shall deposit therein all money received by him on account of the Metropolitan Corporation, and he shall keep the money of the Metropolitan Corporation entirely separate from his own money.

Monthly  
statement  
of assets

(6) The treasurer shall prepare and submit to the Metropolitan Council, monthly, a statement of the money at the credit of the Metropolitan Corporation.

Notice to  
sureties

(7) Where the treasurer is removed from office or absconds, the Metropolitan Council shall forthwith give notice to his sureties. R.S.O. 1970, c. 295, s. 21 (4-7).

Appointment  
of auditors

**22.—**(1) The Metropolitan Council shall by by-law appoint one or more auditors who shall be persons licensed by the Ministry as municipal auditors and who shall hold office during good behaviour and be removable for cause by the Metropolitan Council, and the auditor or auditors so appointed shall audit the accounts and transactions of the Metropolitan Corporation and of every local board of the Metropolitan Corporation, except The Metropolitan Toronto School Board. 1977, c. 37, s. 1.



(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the Metropolitan Corporation and charged back to the local board, and in the event of a dispute as to the amount of the cost the Ministry may upon application finally determine the amount thereof. R.S.O. 1970, c. 295, s. 22 (2); 1972, c. 1, s. 1.

Cost of audit

(3) No person shall be appointed as an auditor of the Metropolitan Corporation who is or during the preceding year was a member of the Metropolitan Council or of the council of an area municipality or of any local board the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the Metropolitan Corporation or an area municipality or any such local board, or any employment with any of them other than for services within his professional capacity. R.S.O. 1970, c. 295, s. 22 (3); 1976, c. 42, s. 2.

Disqualifi-  
cation of  
persons as  
auditors

(4) An auditor shall perform such duties as are prescribed by the Ministry, and also such duties as may be required by the Metropolitan Council or any local board of the Metropolitan Corporation that do not conflict with the duties prescribed by the Ministry.

Duties of  
auditor

(5) An auditor may administer an oath to any person concerning any account or other matter to be audited.

Auditors  
may  
administer  
oaths

(6) The Metropolitan Council may provide that all accounts shall be audited before payment. R.S.O. 1970, c. 295, s. 22 (4-6); 1972, c. 1, s. 1.

Audit of  
accounts  
before  
payment

**23.**—(1) The Metropolitan Council may pass by-laws for appointing such officers and employees as it may consider necessary for the purposes of the Metropolitan Corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the Metropolitan Council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them.

Employees

(2) Except as otherwise provided in this Act, all officers and employees appointed by the Metropolitan Council shall hold office during the pleasure of the Metropolitan Council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the Metropolitan Council. R.S.O. 1970, c. 295, s. 23.

Tenure  
of office  
and duties

**24.**—(1) Sections 94 and 96, subsections 98 (4) and (5), sections 100 and 117 and paragraphs 46, 47 and 48 of section 208 of the

Application  
of  
R.S.O. 1980,  
c. 302

*Municipal Act* apply with necessary modifications to the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 24 (1).

Pensions

(2) In addition to its powers in subsection (1), the Metropolitan Council may pass by-laws for providing pensions for employees, or any class thereof, and their wives and children.

Interpre-  
tation

(a) In this subsection, "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the Metropolitan Corporation or any local board thereof, or of any area municipality or local board thereof, or of the Toronto and York Roads Commission, and includes a member of the Metropolitan Police Force and any person designated as an employee by the Minister.

Two-thirds  
vote  
required

(b) No by-law establishing a pension plan or a by-law amending such a by-law shall be passed by the Metropolitan Council under this subsection except on an affirmative vote of at least two-thirds of the Metropolitan Council present and voting thereon.

Agreement  
necessary

(c) A local board of the Metropolitan Corporation, an area municipality, a local board of an area municipality or the Toronto and York Roads Commission may enter into an agreement with the Metropolitan Corporation providing that a pension plan established under this subsection shall be applicable to employees or any class thereof of such local board, area municipality or the Toronto and York Roads Commission, and such agreement may provide for the incorporation of the plan of an area municipality, local board or the Toronto and York Roads Commission with the plan established under this subsection and for the transfer of any credits or assets from one plan to the other, but no pension plan established under this subsection applies to an employee of a local board, area municipality or the Toronto and York Roads Commission unless such an agreement has been entered into.

Deductions  
from salary,  
etc.

(d) Where a pension plan established under this subsection is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board, area municipality or the Toronto and York Roads Commission, as the case may be, shall deduct, by instalments from the salary, wages or other

remuneration of each employee to whom the by-law is applicable, the amount that such employee is required to pay in accordance with the provisions of the plan and shall pay the amounts deducted to the treasurer of the Metropolitan Corporation.

- (e) Where a pension plan established under this sub-section is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board or area municipality or the Toronto and York Roads Commission shall pay to the treasurer of the Metropolitan Corporation the employer contributions in respect of such employee in accordance with the provisions of the plan. R.S.O. 1970, c. 295, s. 24 (2); 1971, c. 80, s. 1; 1974, c. 42, s. 4 (1).

Employer  
contributions

(3) Where the Metropolitan Corporation or a local board thereof employs a person theretofore employed by an area municipality or a local board thereof, a local board of the Metropolitan Corporation, the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission for the purposes of any pension plan of such area municipality or local board or of the County of York or the Toronto and York Roads Commission, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission, until the Metropolitan Corporation has provided a pension plan for its employees and such employee has elected, in writing, to participate therein or the local board of the Metropolitan Corporation has entered into an agreement under clause (2) (c).

Pensions

(4) Until such election or an agreement has been entered into under clause (2) (c), the Metropolitan Corporation or local board thereof shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission and the Metropolitan Corporation or local board thereof shall pay to the area municipality or local board or to the County of York or the Toronto and York Roads Commission in instalments,

Idem

- (a) the amounts so deducted;
- (b) the future service contributions payable under the plan by the area municipality or local board or by the County of York or the Toronto and York Roads Commission.

Improved  
pension  
benefits

(5) Where a pension plan of an area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission is amended to improve the pension benefits under the plan, the cost of such improvements in respect of an employee who on the day such pension plan is so amended is contributing under subsection (4) to the pension plan, shall, in respect of the service of the employee while employed by the Metropolitan Corporation or by a local board thereof, be determined by the actuary of the plan that is amended, after taking into consideration any excess of the assets of the pension plan over the actuarial liabilities of the plan immediately prior to the amendment, and the cost, except that portion, if any, that is payable by the employee, shall be payable by the Metropolitan Corporation or by a local board thereof over such period of time, subject to the *Pension Benefits Act*, as may be agreed upon by the municipalities or local boards affected. R.S.O. 1970, c. 295, s. 24 (3-5).

R.S.O. 1980,  
c. 373

Idem

(6) Where the Metropolitan Corporation or a local board thereof does not accept the amount of the actuarial liability determined as provided for in subsection (5) or the period of time in which the cost mentioned in subsection (5) is payable, the municipalities or local boards affected shall appoint an actuary whose opinion on the matter shall be final and binding and, if such municipalities or local boards cannot agree on the appointment of an actuary, the Ministry shall appoint an actuary whose opinion on the matter shall be final and binding. R.S.O. 1970, c. 295, s. 24 (6); 1972, c. 1, s. 1.

Accrued  
benefits  
under  
former plan

(7) Upon such election or upon such an agreement being entered into and such an employee becoming a member of the pension plan established by the Metropolitan Corporation, he or his beneficiaries are entitled on termination of his services with the Metropolitan Corporation or a local board thereof to all benefits under the pension plan of the area municipality, or of a local board, or of the County of York or of the Toronto and York Roads Commission accrued up to the date of his becoming a member of the Metropolitan Corporation pension plan, and his employment by and service with the Metropolitan Corporation or a local board thereof shall be deemed to be employment by and service with the respective area municipality, or local board, or the County of York or the Toronto and York Roads Commission for the purpose of determining eligibility for any such accrued benefits.



(8) An employee who has become a member of the pension plan of the Metropolitan Corporation or of a local board thereof in accordance with subsection (3) is entitled to elect a transfer of a sum of money to such pension plan from the pension plan of an area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission, in accordance with the provisions of subsection 117 (4) of the *Municipal Act*, whether or not such an employee is entitled to a refund from the pension plan of his contributions plus any interest thereon and, on the transfer of such a sum of money, the employee and his beneficiaries shall cease to have any rights under the pension plan of the area municipality or the local board thereof or of the County of York or of the Toronto and York Roads Commission.

Transfer of  
funds to  
Metropolitan  
Toronto  
plan

R.S.O. 1980,  
c. 302

(9) Where an employee elects a transfer of a sum of money under subsection (8), the sum of money shall be transferred on the termination of the service of the employee with the Metropolitan Corporation or a local board thereof or, at the option of the area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission, at an earlier date. R.S.O. 1970, c. 295, s. 24 (7-9).

Idem

(10) Notwithstanding this or any other general or special Act, where a retired employee of the Metropolitan Corporation or of a local board thereof,

Election  
by retired  
employee  
to transfer  
to Metro-  
politan  
pension plan

- (a) was an employee of an area municipality or of a local board thereof and without intervening employment became an employee of the Metropolitan Corporation or of a local board thereof;
- (b) became a member of the pension plan of the Metropolitan Corporation;
- (c) retired on or after the 1st day of January, 1970;
- (d) received or is entitled to receive a pension from or under a pension plan of an area municipality or local board thereof; and
- (e) was entitled to elect a transfer of a sum of money under subsection (8) prior to his retirement and did not so elect,

such retired employee may, with the approval of the Metropolitan Corporation and the area municipality or local board thereof, in lieu of the pension referred to in clause (d), elect not later than the 31st day of December, 1974, a transfer of a sum of money to the pension plan of the Metropolitan Corporation from the pension plan of the area municipality or local board thereof, equal to the present value, calculated

as of the date of the transfer of such sum of money on the basis of generally accepted actuarial methods, of the pension, including all benefits pertaining thereto to which such retired employee is entitled under the pension plan of the area municipality or of a local board thereof and, where such retired employee has died, the person receiving a pension in respect of the retired employee shall be deemed to be the retired employee for the purposes of this subsection. 1974, c. 42, s. 4 (2).

Sick leave  
credits

(11) Where the Metropolitan Corporation or local board thereof employs a person theretofore employed by an area municipality or local board thereof or a local board of the Metropolitan Corporation or by the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission for the purposes of any sick leave credit plan of the area municipality, local board, the County of York or the Toronto and York Roads Commission until the Metropolitan Corporation or local board thereof has established a sick leave credit plan for its employees, whereupon the Metropolitan Corporation or local board thereof shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission.

Holidays

(12) Where the Metropolitan Corporation or local board thereof employs a person theretofore employed by an area municipality or local board thereof or a local board of the Metropolitan Corporation or by the County of York or the Toronto and York Roads Commission, the Metropolitan Corporation or local board thereof shall, during the first year of his employment by the Metropolitan Corporation or local board thereof, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the area municipality or local board or of the County of York or the Toronto and York Roads Commission.

Application  
of OMERS  
to transfer of  
employment  
to Metro-  
politan  
Corporation  
or area  
municipality

(13) A person who was employed by an area municipality or a local board thereof before the 1st day of January, 1967, and who is employed by the Metropolitan Corporation or a local board thereof or by an area municipality or a local board thereof, without intervening employment, shall not be deemed to be a person who enters the employ of an employer within the meaning of clause 9 (1) (a) of the *Ontario Municipal Employees Retirement System Act*. R.S.O. 1970, c. 295, s. 24 (10-12).

## PART II

### ASSESSMENT

**25.** Where the owner of a golf course makes a payment to an area municipality under subsection 22 (4) or (5) of the *Assessment Act*, the amount paid shall be distributed among the bodies for which the area municipality is required to levy in the proportion that the sum of the levies for each body during the currency of the agreement bears to the sum of the total levies during such period. R.S.O. 1970, c. 295, s. 25.

Distribution of moneys paid on termination of fixed assessment agreement  
R.S.O. 1980, c. 31

**26.** For the purposes of sections 39, 42 and 47 of the *Assessment Act*, "school board" includes The Metropolitan Toronto School Board and an agent thereof. R.S.O. 1970, c. 295, s. 26.

Assessment appeals by Metropolitan Toronto School Board

**27.**—(1) The council of the City of Toronto and the council of the Borough of Etobicoke may, without the assent of the electors, repeal any by-law in force in the City or Borough providing for the partial exemption of dwellings from taxation or provide for the abolition of such exemption over a period of five years in such manner as the council may determine.

Repeal of partial exemption of dwellings

(2) Any such by-law in force in the City of Toronto immediately before the 1st day of January, 1967, shall be deemed to be in force in the whole of the City of Toronto until repealed. R.S.O. 1970, c. 295, s. 27.

Toronto by-law

## PART III

### METROPOLITAN WATER WORKS SYSTEM

**28.** For the purpose of supplying to the area municipalities water for the use of the area municipalities and their inhabitants, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof, respecting the establishment, construction, maintenance, operation, improvement and extension of a waterworks system. R.S.O. 1970, c. 295, s. 28.

Establishment of waterworks

**29.**—(1) The Metropolitan Council shall before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as part of the metropolitan waterworks system all works for the production, treatment and storage of water vested in each area municipality or any local board thereof and all trunk distribution mains connected therewith, and on the day any such by-law becomes effective the works and mains designated therein vest in the Metropolitan Corporation.

Assumption of works and main

Idem	(2) A by-law under subsection (1) shall designate and describe the works and trunk distribution mains assumed.
Interpre- tation	(3) For the purpose of subsection (1), a distribution main shall be deemed to be a trunk distribution main if so declared in the by-law assuming it.
Extension of time	(4) Notwithstanding subsection (1), a by-law for assuming any specific work or trunk distribution main may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein.
Metropolitan liability	(5) Where the Metropolitan Corporation assumes a work or trunk distribution main vested in an area municipality or local board, <ul style="list-style-type: none"><li>(a) no compensation or damages shall be payable to the area municipality or local board;</li><li>(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or main, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under the <i>Local Improvement Act</i> is payable as the owners' share of a local improvement work. R.S.O. 1970, c. 295, s. 29 (1-5).</li></ul>
R.S.O. 1980, c. 250	
Default	(6) If the Metropolitan Corporation fails to make any payment as required by clause (5) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 2.
Settling of doubts	(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or trunk distribution main assumed, the Municipal Board, upon application, may determine the matter and its decision is final.
Interpre- tation	(8) In this section, "works" means buildings, structures, plant, machinery, equipment and appurtenances, devices, conduits, intakes and outlets and underground construction and installations and other works designed for the production, treatment and storage of water and includes lands appropriated for such purposes and uses. R.S.O. 1970, c. 295, s. 29 (7, 8).



**30.**—(1) Where an area municipality or a local board thereof has agreed with any other municipality to supply water to that other municipality, and the works and trunk distribution mains used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable for the supply of water in accordance with the agreement and is bound by all the terms thereof and the area municipality or local board is relieved of all liability thereunder. Existing agreements

(2) Notwithstanding subsection (1) and notwithstanding anything in the agreement, the Municipal Board, upon the application of the Metropolitan Council or the council of the municipality to which the water is supplied, has jurisdiction and power from time to time to confirm, vary or fix the rates charged or to be charged in connection with water supplied under the agreement. Rates R.S.O. 1970, c. 295, s. 30.

**31.**—(1) Where all the works of an area municipality or any local board thereof for the production, treatment and storage of water are assumed by the Metropolitan Corporation, the area municipality or local board shall not thereafter establish, maintain or operate any such works. Powers of area municipalities restricted

(2) An area municipality that did not operate any such works on the 31st day of December, 1953, shall not, after that date, establish, maintain or operate any such works. Idem

(3) Nothing in this section limits the powers of an area municipality or local board thereof respecting the use and distribution of water supplied to such area municipality by the Metropolitan Corporation. Proviso R.S.O. 1970, c. 295, s. 31.

**32.**—(1) No municipality or local board that is supplied with water by the Metropolitan Corporation shall supply or agree to supply any of such water beyond the limits of the municipality without the approval of the Metropolitan Council. Supply beyond limits of local municipality

(2) Nothing in subsection (1) prohibits an area municipality or local board from supplying water to another municipality where the area municipality or local board has agreed to supply such water before the 1st day of April, 1953, and the works and trunk distribution mains used or required in carrying out such agreement have not been assumed by the Metropolitan Corporation. Proviso R.S.O. 1970, c. 295, s. 32.

**33.** The Metropolitan Council may pass by-laws for regulating the time, manner, extent and nature of the supply of water from its waterworks system, and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate in order to secure to the inhabitants of the Metropolitan Area a continued and Regulation of supply, etc.

abundant supply of pure and wholesome water, and to prevent the practising of frauds on the Metropolitan Corporation with regard to the water so supplied. R.S.O. 1970, c. 295, s. 33.

Maintenance,  
management, etc.

**34.** The Metropolitan Council may pass by-laws for the maintenance and management of its waterworks system and may also by by-law or resolution fix the charges to meet the cost of any work or service done or furnished for the purposes of the supply of water and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to any municipality or local board. R.S.O. 1970, c. 295, s. 34.

Rates

**35.—**(1) The Metropolitan Council may pass by-laws fixing the rates at which water will be supplied to the area municipalities, and the times and places when and where the rates shall be payable.

Idem

(2) In fixing the rates, the Metropolitan Council may use its discretion as to the rate or rates to be charged to any area municipality, and may charge different rates to the various area municipalities.

Self-sustaining

(3) The Metropolitan Council shall so fix the rates at which water is supplied to the area municipalities that the revenues of the waterworks system will be sufficient to make the system self-sustaining after providing for such maintenance, renewals, depreciation, debt charges and reserves as the Metropolitan Council may think proper.

R.S.O. 1980,  
c. 347,  
cl. 53 (1) (k),  
not  
applicable

(4) Clause 53 (1) (k) of the *Ontario Municipal Board Act* does not apply with respect to water supplied by the Metropolitan Corporation to an area municipality. R.S.O. 1970, c. 295, s. 35.

Surcharge  
on water  
rates

**36.—**(1) Notwithstanding section 35, the Metropolitan Council may add a surcharge of such percentage as it may determine to the water rates fixed under that section and the proceeds of such surcharge shall be deemed not to be revenue of the waterworks system under section 39 and shall be applied or expended for the purpose of collecting or receiving from the area municipalities, or any of them, sewage and land drainage and the treatment or disposal thereof, and such surcharge shall be deemed to be a user charge and no property shall be exempt from such charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. 1976, c. 72, s. 1.

R.S.O. 1980,  
c. 31

Rate on  
discharge  
into sewer  
system

(2) Where a person obtains water from a private waterworks system and discharges the water into the Metropolitan sewer system or a sewer system draining into the Metropolitan sewer

system, the Metropolitan Council may by by-law charge a rate in respect of the water discharged. 1979, c. 90, s. 1.

(3) The provisions of section 50 apply to this section. 1974, c. 42, s. 5, *part*. Application of s. 50

**37.**—(1) The Metropolitan Corporation has power to and shall supply water to the area municipalities, but, subject to subsection (2), shall not supply water to any other person. R.S.O. 1970, c. 295, s. 36 (1). Retail sale prohibited

(2) The Metropolitan Corporation may enter into a contract for the supply of water to any local or regional municipality outside the Metropolitan Area for its use or for resale to the inhabitants thereof for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time, but where a local municipality is included in a regional municipality such contracts may only be entered into with the corporation of the regional municipality. R.S.O. 1970, c. 295, s. 36 (2); 1971, c. 80, s. 3. Sale to other municipalities

**38.** The Metropolitan Council shall keep separate books and accounts of the revenues, expenditures, assets and liabilities of its waterworks system in such manner as may be prescribed by the Ministry. R.S.O. 1970, c. 295, s. 37; 1972, c. 1, s. 1. Books and accounts

**39.**—(1) Notwithstanding anything in the *Public Utilities Act* or any other general or special Act, the revenues of the waterworks system shall be applied only for, Application of revenues  
R.S.O. 1980, c. 423

- (a) the reduction of any indebtedness assumed or incurred with respect to the system;
- (b) the operation, maintenance, renewal, improvement or extension of the system;
- (c) the establishment of such reserve funds as the Metropolitan Council considers proper, to be used at any future time for any purpose mentioned in clause (a) or (b) or for the stabilization of rates,

and any surplus revenues not required for such purposes shall remain credited to the waterworks system accounts and shall not form part of the general funds of the Metropolitan Corporation.

(2) It is not necessary to levy any rate to provide for principal, interest or other payments on account of any debentures issued or assumed by the Metropolitan Corporation for the purposes of the waterworks system except to the extent Where levy unnecessary

that the revenues of the system are insufficient to meet the annual payment falling due on account of principal and interest on the debentures.

Reserve  
fund

(3) The moneys forming part of a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act* and the earnings derived from the investment of such moneys shall form part of the reserve fund.

R.S.O. 1980,  
c. 512

Application  
of reserve  
fund

(4) The moneys forming part of a reserve fund established under subsection (1) shall be applied or expended only for the purposes of the waterworks system. R.S.O. 1970, c. 295, s. 38.

Disposal of  
property

**40.**—(1) Subject to section 47, the Metropolitan Corporation may sell, lease or otherwise dispose of any real or personal property acquired, held or used for or in connection with the waterworks system that, in the opinion of the Metropolitan Council, is no longer required for the purposes of the waterworks system, but where the property is actually used for the purposes of the waterworks system no such sale, lease or other disposition shall be made without the approval of the Municipal Board.

Proceeds

(2) The proceeds of any such sale, lease or other disposition shall be applied first in redemption and payment of any indebtedness assumed or incurred in respect of the property disposed of, and the balance shall form part of the revenues of the waterworks system. R.S.O. 1970, c. 295, s. 39.

Temporary  
shut-offs

**41.**—(1) The Metropolitan Corporation is not liable for damages caused by the shut-off or reduction of the amount of water supplied to an area municipality in cases of emergency or breakdown or when it is necessary in maintaining or extending the system, but the Metropolitan Council shall wherever possible give to any area municipality reasonable notice of intention to shut off or reduce the supply of water.

No breach  
of contract

(2) Where the supply of water by the Metropolitan Corporation to an area municipality is interrupted or reduced, the area municipality or its local board may, notwithstanding anything in any contract, allocate and distribute its available water among its customers and may interrupt or decrease the delivery of water under any contract, and nothing done under this subsection shall be deemed to be a breach of contract, or entitle any person to rescind any contract or release any guarantor from the performance of his obligation. R.S.O. 1970, c. 295, s. 40.

Standards  
for local  
systems

**42.**—(1) The Metropolitan Council may pass by-laws establishing standards for and regulating and governing the



design, construction and maintenance of local water distribution works by the area municipalities and may provide in any such by-law for the inspection of such local works, and every area municipality and local board shall conform to such by-laws.

(2) No area municipality or local board thereof shall construct or extend any local water distribution works or connect or continue the connection of the same or any part thereof to any work or main of the Metropolitan Corporation without the approval of the Metropolitan Council. R.S.O. 1970, c. 295, s. 41. Approval of local extensions and connections

**43.** If the council of an area municipality considers itself aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council, Appeal

- (a) to assume as a metropolitan work any local work;
- (b) to construct any extension of the metropolitan distribution system;
- (c) to maintain or increase the supply of water to the area municipality;
- (d) to approve the construction or extension of any local water distribution works by the area municipality; or
- (e) to permit the connection or the continuance of a connection to the metropolitan system,

the council may appeal to the Municipal Board which may make such order as it considers advisable in the matter, and the decision of the Municipal Board is final. R.S.O. 1970, c. 295, s. 42.

**44.**—(1) All rates and charges against an area municipality or local board thereof imposed under the authority of this Part are a debt of the area municipality to the Metropolitan Corporation, and the treasurer of every area municipality shall pay the same to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by by-law of the Metropolitan Council. R.S.O. 1970, c. 295, s. 43 (1). Payment of charges

(2) The Metropolitan Council may by by-law provide for uniform rates of discount for prompt payment of charges for water Discounts and penalties

supplied to the area municipalities and may by by-law provide for the payment of interest in the event of default of a rate of 15 per cent per annum, or such lower rate as the Metropolitan Council determines, while such default continues. 1979, c. 64, s. 3.

Transfer  
of rights  
over works  
assumed

**45.** The Metropolitan Corporation has, in respect of all works and trunk distribution mains assumed as part of the metropolitan waterworks systems, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works or mains before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works or mains had not been assumed. R.S.O. 1970, c. 295, s. 44.

Inspection  
of local  
works

**46.** Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works for the production and distribution of water within an area municipality and to all lands, buildings and premises used in connection therewith and the right upon the like notice and request to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. R.S.O. 1970, c. 295, s. 45.

Reversion  
where mains  
no longer  
required

**47.** Where a distribution main has been assumed by the Metropolitan Corporation under section 29 and, in the opinion of the Metropolitan Council, is no longer required for the purposes of the metropolitan waterworks system but is, in the opinion of the council of the area municipality in which it is situate, required as a local distribution main by the area municipality, the Metropolitan Council shall by by-law remove the main from the metropolitan waterworks system and transfer it to the area municipality. R.S.O. 1970, c. 295, s. 46.

Use of  
metropolitan  
works

**48.** The works and mains assumed by the Metropolitan Corporation under section 29, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of supplying and distributing water to any or all of the area municipalities and, subject to subsection 37 (2), to any local municipality outside the Metropolitan Area. R.S.O. 1970, c. 295, s. 47.

Application  
of  
R.S.O. 1980,  
c. 423

**49.** Sections 2, 3, 4, 5, 13, 28, 31, 32, 33, 51, 52, 53 and 55 of the *Public Utilities Act* apply with necessary modifications to the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 48.

## PART IV

### METROPOLITAN SEWAGE WORKS

50.—(1) In this Part,

Interpre-  
tation

- (a) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (b) “land drainage” means storm, surface, overflow, sub-surface or seepage waters or other drainage from land, but does not include sewage;
- (c) “sewage” means domestic sewage or industrial wastes, or both;
- (d) “sewage works” means an integral system consisting of a sewer or sewer system and treatment works;
- (e) “sewer” means a public sewer for common usage for the purpose of carrying away sewage or land drainage, or both;
- (f) “sewer system” means a system of two or more interconnected sewers having one or more common discharge outlets and includes pumping plant, force mains, siphons and other like works;
- (g) “treatment works” means buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets and other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage or land drainage, or both, and includes land appropriated for such purposes and uses;
- (h) “work” means a sewer, sewer system, sewage works or treatment works, or a capital improvement of any of them.

(2) For the purpose of this Part, a sewer, sewer system or <sup>Idem</sup> sewage works, whether existing or proposed, shall be deemed to be a trunk sewer, trunk sewer system or trunk sewage works, if so declared by by-law of the Metropolitan Council.  
R.S.O. 1970, c. 295, s. 49.

General  
powers

**51.** For the purpose of collecting or receiving from the area municipalities, or any of them, sewage and land drainage and the treatment or disposal thereof, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof. R.S.O. 1970, c. 295, s. 50.

Construc-  
tion, etc.,  
of trunk  
sewage  
works

**52.** The Metropolitan Council may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up trunk sewers, trunk sewer systems, trunk sewage works, treatment works and watercourses. R.S.O. 1970, c. 295, s. 51.

Assumption  
of treatment  
works

**53.—(1)** The Metropolitan Council shall, before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as metropolitan sewage works all treatment works vested in each area municipality or any local board thereof, and on the day any such by-law becomes effective the works designated therein vest in the Metropolitan Corporation.

Other works

**(2)** The Metropolitan Council may at any time pass by-laws for assuming any trunk sewer, trunk sewer system, or watercourse vested in any area municipality or local board thereof, but no such by-law becomes effective before the 1st day of January, 1954.

Idem

**(3)** A by-law under subsection (1) or (2) shall designate and describe the works assumed.

Extension  
of time

**(4)** Notwithstanding subsection (1), a by-law for assuming any specific treatment works may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein.

Metropolitan  
liability

**(5)** Where the Metropolitan Corporation assumes a work or watercourse vested in an area municipality or local board,

- (a)** no compensation or damages shall be payable to the area municipality or local board;
- (b)** the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or watercourse, but nothing in this clause requires the Metropolitan



Corporation to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement work. R.S.O. 1970, c. 295, s. 52 (1-5). R.S.O. 1980,  
c. 250

(6) If the Metropolitan Corporation fails to make any payment as required by clause (5) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 4. Default

(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or watercourse assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 52 (7). Settling of  
doubts

54.—(1) Where an area municipality or a local board thereof has agreed with any other municipality to receive sewage or land drainage from that other municipality, and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the receiving municipality or local board is relieved of all liability thereunder. Existing  
agreements

(2) Where an area municipality or a local board thereof has agreed with any person other than a municipality to receive sewage or land drainage and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the area municipality or local board is relieved of all liability thereunder. Idem

(3) Notwithstanding subsections (1) and (2) and notwithstanding anything in any such agreement, the Municipal Board, upon the application of the Metropolitan Council or of the council of any area municipality or of any person concerned, may by order terminate any such agreement and adjust all rights and liabilities thereunder. R.S.O. 1970, c. 295, s. 53. Termination

55.—(1) Where all the treatment works of an area municipality or any local board thereof are assumed by the Metropolitan Corporation, the area municipality shall not thereafter establish, maintain or operate treatment works without the approval of the Metropolitan Council. Powers of  
area municipi-  
palities  
restricted

Idem

(2) No area municipality shall establish or enlarge any treatment works after the 1st day of December, 1953, without the approval of the Metropolitan Council. R.S.O. 1970, c. 295, s. 54.

Regulation  
of system,  
etc.

**56.**—(1) The Metropolitan Council may pass by-laws for the maintenance and management of its sewers, sewer system, sewage works, treatment works and watercourses and regulating the manner, extent and nature of the reception and disposal of sewage and land drainage from the area municipalities and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate in order to secure to the inhabitants of the Metropolitan Area an adequate system of sewage and land drainage disposal. R.S.O. 1970, c. 295, s. 55.

Control of  
sewage

(2) The Metropolitan Council has all the authority and powers in respect of any sewers which mediate or immediately enter into sewers or treatment works under the jurisdiction of the Metropolitan Corporation as have councils of local municipalities under paragraph 147 of section 210 of the *Municipal Act*.

R.S.O. 1980,  
c. 302

Conflict

(3) In the event of conflict between a by-law passed under subsection (2) by the Metropolitan Council and a by-law passed by the council of the area municipality in which the land is situate under paragraph 147 of section 210 of the *Municipal Act*, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect. 1979, c. 64, s. 5.

Special  
benefit

**57.**—(1) Where in the opinion of the Metropolitan Council an area municipality or a portion thereof will or may derive a special benefit from the construction and operation of a work or watercourse, the Metropolitan Council may, with the approval of the Municipal Board, in authorizing the construction, extension or improvement of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the Metropolitan Corporation such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

Debenture  
payments

(2) Where debentures are issued for the cost of the work, the area municipality chargeable under the by-law shall make payments to the Metropolitan Corporation with respect to such debentures proportionate to its share of the capital cost as set out in the by-law in the same manner as if debentures for such share had been issued by the Metropolitan Corporation for the purposes of the area municipality.

Raising  
of money  
by area  
municipality

(3) The area municipality may pay the amounts chargeable to it under this section out of its general funds or,

subject to the approval of the Municipal Board, may pass by-laws under section 218 of the *Municipal Act* for imposing sewer rates to recover the whole or part of the amount chargeable to the area municipality in the same manner as if the work were being or had been constructed, extended or improved by the area municipality. R.S.O. 1970, c. 295, s. 56. R.S.O. 1980, c. 302

**58.**—(1) No municipality or person shall connect any local work, local watercourse, private drain or private sewer to a metropolitan work or watercourse without the approval of the Metropolitan Council. R.S.O. 1970, c. 295, s. 57 (1). Connecting to metropolitan works or watercourses

(2) The Metropolitan Corporation may enter into a contract with any local or regional municipality outside the Metropolitan Area to receive and dispose of sewage and land drainage from the local or regional municipality on such terms and conditions as may be agreed upon for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time, but where a local municipality is included in a regional municipality such contracts may only be entered into with the corporation of the regional municipality. R.S.O. 1970, c. 295, s. 57 (2); 1971, c. 80, s. 4. Agreements with other municipalities

(3) Any engineer or other officer of the Metropolitan Corporation has power to inspect the plans and specifications of any work referred to in subsection (1) and to inspect the work during its construction and before it is connected with the metropolitan work or watercourse. R.S.O. 1970, c. 295, s. 57 (3). Inspection

**59.**—(1) The Metropolitan Council may pass by-laws establishing standards for and regulating and governing the design, construction and maintenance of local works connected or to be connected to a metropolitan work or watercourse, and every area municipality and local board shall conform to such by-laws. Standards for local systems

(2) No area municipality or local board thereof shall enlarge, extend or alter any local work or watercourse that discharges into a metropolitan work or watercourse without the approval of the Metropolitan Council. R.S.O. 1970, c. 295, s. 58. Approval of local extensions, etc.

**60.** If the council of an area municipality considers itself aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council, Appeal

(a) to assume as a metropolitan work any local work;

(b) to construct, extend or improve any metropolitan work;

- (c) to receive any required volume of sewage or land drainage from the area municipality;
- (d) to approve the construction, alteration, improvement or extension of a local work;
- (e) to permit a connection or the continuance of a connection to any metropolitan work,

the council may appeal to the Municipal Board which may make such order as it considers advisable in the matter, and the decision of the Municipal Board is final. R.S.O. 1970, c. 295, s. 59.

Special  
sewage  
service rates

**61.**—(1) The Metropolitan Council may pass by-laws, subject to the approval of the Municipal Board, providing for imposing on and collecting from any area municipality, in respect of the whole or any designated part or parts thereof from which sewage and land drainage is received, a sewage service rate or rates sufficient to pay such portion as the by-law may specify of the annual cost of maintenance and operation of any metropolitan work or works.

Idem

(2) All such charges constitute a debt of the area municipality to the Metropolitan Corporation and shall be payable at such times and in such amounts as may be specified by by-law of the Metropolitan Council.

Raising of  
money by  
area municipi-  
ality

R.S.O. 1980,  
c. 302

(3) The area municipality may pay the amounts chargeable to it under any such by-law out of its general funds or, subject to the approval of the Municipal Board, may pass by-laws under section 218 of the *Municipal Act* for imposing sewage service rates to recover the whole or part of the amount chargeable to the area municipality. R.S.O. 1970, c. 295, s. 60.

Contribution  
towards cost  
of separation  
of combined  
sewers

**62.** The Metropolitan Council may contribute toward the cost to any area municipality of the separation of sanitary and storm sewers now in existence in the area municipality such amount as it considers proper not exceeding 25 per cent of the total cost thereof to the area municipality. R.S.O. 1970, c. 295, s. 61.

Transfer of  
rights over  
works  
assumed

**63.** The Metropolitan Corporation has, in respect of all works assumed, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works had not been assumed. R.S.O. 1970, c. 295, s. 62.



**64.** Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works within an area municipality and to all lands, buildings and premises used in connection therewith and the right, upon the like notice and request, to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. R.S.O. 1970, c. 295, s. 63. Inspection of  
local works

**65.** Any works assumed by the Metropolitan Corporation under the authority of section 53, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of receiving and disposing of sewage and land drainage from any or all of the area municipalities and, subject to subsection 58 (2), from any local municipality outside the Metropolitan Area. R.S.O. 1970, c. 295, s. 64. Use of  
metropolitan  
works

## PART V

### WASTE DISPOSAL

#### **66.—(1)** In this Part,

Interpre-  
tation

- (a) "area municipality" includes a local board;
- (b) "waste" includes ashes, garbage, refuse and domestic or industrial waste of any kind. R.S.O. 1970, c. 295, s. 65 (1).

(2) The Metropolitan Corporation may acquire and use land in any local municipality or in territory without municipal organization and may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of receiving, dumping and disposing of waste, and may contract with any person for such purposes, and may prohibit or regulate the dumping and disposing of waste or any class or classes thereof upon any such land, and may charge fees for the use of such property, which fees may vary in respect of different classes, volumes or weights of waste or may vary having regard to such other criteria in respect of waste as the Metropolitan Council considers appropriate, but no such fees shall be charged to any area municipality or its agent. R.S.O. 1970, c. 295, s. 65 (2); 1972, c. 89, s. 1 (1); 1974, c. 114, s. 2. Waste  
disposal

(3) No land shall be acquired in a local municipality under subsection (2) without the approval of the local municipality, which approval may be granted upon such terms and conditions as may be agreed upon, or failing such approval or agreement, the approval of the Municipal Board, and no land shall be acquired in territory without municipal Approval re  
acquisition  
of land

organization under subsection (2) without the approval of the Municipal Board. 1972, c. 89, s 1 (2).

Approval of  
O.M.B.

(4) The Municipal Board, before giving its approval under subsection (3), shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Municipal Board may direct, and the Municipal Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Municipal Board may appear necessary or expedient, and the Municipal Board may order the amendment of any official plan or of any by-law passed under section 39 of the *Planning Act* to permit the use of the land for the purposes for which it is to be acquired. R.S.O. 1970; c. 295, s. 65 (4); 1972, c. 89, s. 1 (3).

R.S.O. 1980,  
c. 379

Powers of  
area muni-  
cipalities

(5) On and after the 1st day of January, 1967, no area municipality shall exercise any of its powers with respect to the matters provided for in subsection (2) without the consent of the Metropolitan Council.

Assumption  
of lands  
for waste  
disposal

(6) The Metropolitan Council shall, before the 1st day of January, 1967, pass by-laws, which shall be effective on the 1st day of January, 1967, assuming for the use of the Metropolitan Corporation any land, building, structure, machinery or equipment, including vehicles used primarily for the disposal of waste, that the Metropolitan Corporation may require for the purposes of subsection (2) that is vested on the 31st day of March, 1966, in any area municipality and is used on such date for the purposes set out in subsection (2) or that is acquired by any area municipality after the 31st day of March, 1966, and before the 1st day of January, 1967, for such use, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation.

Sale by  
area muni-  
cipalities  
limited

(7) No area municipality, after the 31st day of March, 1966, and before the 1st day of January, 1967, shall without the consent of the Metropolitan Council sell, lease or otherwise dispose of or encumber any property mentioned in subsection (6).

Extension  
of time

(8) Notwithstanding subsection (6), a by-law for assuming any property mentioned in subsection (6), with the approval of the Municipal Board, may be passed after the 1st day of January, 1967, and in that case the by-law shall become effective on the date provided therein.

(9) Where the Metropolitan Corporation assumes any property under subsection (6) or (8),

Liability of  
Metro-  
politan  
Corporation

- (a) no compensation or damage shall be payable to the area municipality except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation under subsection (6) or (8); and
- (c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation in respect of any property vested in the Metropolitan Corporation under subsection (6) or (8) shall be repaid by levies against all the area municipalities. R.S.O. 1970, c. 295, s. 65 (5-9).

(10) If the Metropolitan Corporation fails to make any payment as required by clause (9) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 6.

Default

(11) In the event of any doubt as to whether,

Settling  
of doubts

- (a) any outstanding debenture or portion thereof was issued in respect of any property assumed under subsection (6) or (8); or
- (b) any vehicle was used primarily for the disposal of waste,

the Municipal Board, upon application, may determine the matter, and its decision is final.

(12) No by-law of any municipality heretofore or hereafter passed under paragraph 129 of section 210 of the *Municipal Act* or a predecessor thereof shall apply to the operations of the Metropolitan Corporation under subsection (2).

Local  
by-laws not  
applicable  
to Metro-  
politan  
Corporation  
operations  
R.S.O. 1980,  
c. 302

(13) Nothing in this Part affects any contract for the disposal of waste that is existing on the 18th day of May, 1966 between any person and any area municipality, but the Metropolitan Corporation and any such area municipality may enter into an agreement providing that the Metropolitan

Existing  
contracts  
for disposal  
of waste

Corporation shall assume all or part of the liability created by such contract in respect of the disposal of waste. R.S.O. 1970, c. 295, s. 65 (11-13).

Products  
from  
industrial  
waste, etc.

**67.**—(1) The Metropolitan Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purpose of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam, and for such purposes may,

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus, and equipment on, over, under or across any highway or private property with the consent of the owner of such private property; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

R.S.O. 1980,  
c. 309,  
not to apply

(2) The *Municipal Franchises Act* does not apply to any act of the Metropolitan Corporation under this section. 1980, c. 39, s. 4.

## PART VI

### METROPOLITAN ROAD SYSTEM

Interpre-  
tation

**68.** In this Part,

- (a) “approved” means approved by the Minister or of a type approved by the Minister;
- (b) “Minister” means the Minister of Transportation and Communications;
- (c) “Ministry” means the Ministry of Transportation and Communications. R.S.O. 1970, c. 295, s. 66; 1972, c. 1, s. 100 (2).

Existing  
county roads  
in Area

**69.** Unless assumed as a metropolitan road by the by-law mentioned in section 70, all roads within the Metropolitan Area or on the boundary between the Metropolitan Area and an adjoining county that, on the 31st day of December, 1953, form part of the county road system of the County of York established under *The Highway Improvement Act* shall, on the 1st day of January, 1954, revert or be transferred to the

R.S.O. 1950,  
c. 166



corporations of the local municipalities in which they are situate. R.S.O. 1970, c. 295, s. 67.

**70.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council shall by by-law establish a metropolitan road system in the Metropolitan Area by assuming roads in any area municipality and may include in the system such boundary line roads or portions thereof between the Metropolitan Area and an adjoining county or regional municipality on such terms and conditions as may be agreed upon between the Metropolitan Council and the council of such county or regional municipality, and the by-law shall designate the roads to be assumed as metropolitan roads and intended to form the metropolitan road system. R.S.O. 1970, c. 295, s. 68 (1); 1971, c. 80, s. 5.

Establishment of metropolitan road system

(2) The by-law shall be passed not later than the 31st day of October, 1953, and shall come into force on the 1st day of January, 1954.

Time for passing: effective date

(3) The Metropolitan Corporation shall submit the by-law to the Minister of Highways for approval by the Lieutenant Governor in Council on or before the 31st day of October, 1953, and upon receipt of the application for such approval the Minister of Highways may obtain such report thereon as he considers necessary and may hear the council of any area municipality that may be dissatisfied therewith before presenting the application for consideration to the Lieutenant Governor in Council.

Submission of by-law for approval

(4) The Lieutenant Governor in Council may approve the by-law in whole or in part and where the by-law is approved in part only it shall be enforced and take effect so far as approved, but it is not necessary for the Metropolitan Council to pass any further by-law amending the original by-law or repealing any portion thereof which has not been so approved.

Approval or amendment

(5) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may amend the by-law from time to time by adding roads to or removing roads from the metropolitan road system or in any other manner.

Amendment of by-law

(6) Where a road or a part thereof is added to the metropolitan road system, the soil and freehold of such road or part is thereupon vested in the Metropolitan Corporation.

Metropolitan roads vested in Metropolitan Corporation

(7) Where a road or a part thereof is removed from the metropolitan road system, except by reason of it being stopped-up pursuant to section 79, such road or part is thereupon transferred to and the soil and freehold thereof is thereupon vested in the corporation of the local municipality in which it is situate.

Roads removed from system

Consolidating  
by-law

(8) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Corporation may from time to time pass a by-law consolidating its by-law establishing the metropolitan road system and all by-laws amending such by-law. R.S.O. 1970, c. 295, s. 68 (2-8).

Certain  
expenditures  
not included  
in statement  
under  
R.S.O. 1980,  
c. 421, s. 89

**71.** Where a contribution has been made from any source whatsoever towards an expenditure to which section 89 of the *Public Transportation and Highway Improvement Act* applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister under that Act unless the Minister otherwise directs. R.S.O. 1970, c. 295, s. 71.

Expenditures  
eligible for  
subsidy

**72.** Expenditures that shall be deemed to be properly chargeable to road improvement include those made for the purpose of,

R.S.O. 1980,  
c. 420

- (a) opening a new metropolitan road and acquiring the necessary land therefor;
- (b) clearing a metropolitan road of obstructions;
- (c) widening, altering or diverting a metropolitan road;
- (d) subject to section 3 of the *Public Service Works on Highways Act*, defraying 50 per cent of the cost of labour only in taking up, removing or changing the location of appliances or works placed on or under a metropolitan road by an operating corporation;
- (e) constructing and maintaining bridges, culverts or other structures, other than sanitary sewers, incidental to the construction of a metropolitan road;
- (f) grading a metropolitan road;
- (g) constructing and maintaining an approved base for the road surface on a metropolitan road, including the installing and maintaining of approved drainage;
- (h) constructing and maintaining any approved type of road surface on a metropolitan road;
- (i) constructing and maintaining necessary curbs, gutters and catch basins on a metropolitan road;
- (j) clearing snow from and applying chemicals or abrasives to icy surfaces on a metropolitan road;
- (k) establishing and laying out a new road under section 78 and constructing such new road as part of the metropolitan road system before actually assuming it is a metropolitan road by amending the by-law passed under section 70; and

- (l) such other work of road improvement as the Minister may approve. R.S.O. 1970, c. 295, s. 72.

**73.** Every road constructed or repaired as part of the metropolitan road system shall be so constructed and repaired in accordance with the requirements of the Minister. R.S.O. 1970, c. 295, s. 73.

In accordance with requirements of Minister

**74.** The Metropolitan Corporation has, in respect of the roads or streets included in the metropolitan road system, all the rights, powers, benefits and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon The Corporation of the County of York or the corporation of the area municipality or the corporations of two or more area municipalities which had jurisdiction over the roads before they were assumed by the Metropolitan Corporation, and the Metropolitan Corporation may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the County of York or the area municipality or municipalities, as the case may be, might have done if the roads had not been assumed as metropolitan roads. R.S.O. 1970, c. 295, s. 74.

Powers over roads assumed

**75.—(1)** The Metropolitan Corporation is not by reason of assuming a road under this Act liable for the building, maintenance or repair of sidewalks on any metropolitan road or portion thereof, but the area municipality in which such sidewalks are located continues to be liable for the maintenance and repair of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 284 of the *Municipal Act*, in respect of a sidewalk on a road over which a council has jurisdiction.

Sidewalks excepted

R.S.O. 1980, c. 302

(2) The council of an area municipality may construct or put down a sidewalk or other improvement or service on a metropolitan road but no such work shall be undertaken by a municipal corporation or any individual or company without first obtaining the written consent of the Metropolitan Council expressed by resolution.

Area municipalities may construct sidewalks, etc.

(3) The cost of any sidewalk constructed on a metropolitan road may be met out of the general funds of the area municipality or the work may be undertaken as a local improvement under the *Local Improvement Act*.

How cost provided

R.S.O. 1980, c. 250

(4) An area municipality when constructing a sidewalk or other improvements or service on a metropolitan road under

Area municipality to conform to requirements and be responsible for damages

this section shall conform to any requirements or conditions imposed by the Metropolitan Council and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvements or service on the road. R.S.O. 1970, c. 295, s. 75 (1-4).

R.S.O. 1980,  
c. 421,  
subs. 106 (4),  
not to apply

(5) Subsection 106 (4) of the *Public Transportation and Highway Improvement Act* does not apply to a sidewalk constructed on a metropolitan road by the council of a township. R.S.O. 1970 c. 295, s. 75 (5); 1971, c. 61, s. 1.

Intersection  
of other  
roads by  
metropolitan  
road

**76.**—(1) Where a metropolitan road intersects a road that is not a metropolitan road, the continuation of the metropolitan road to its full width across the road intersected, including the bridges and culverts thereon or touching thereon, is a part of the metropolitan road system except in the case of an intersection by a metropolitan road of the King's Highway, and in that case the full width of the intersection shall be deemed to be part of the King's Highway. R.S.O. 1970, c. 295, s. 76.

Where other  
road carried  
over or under  
metropolitan  
road

(2) Where a road that is not a metropolitan road is carried over or under a metropolitan road by a bridge or other structure, the surface of the road shall be deemed to be under the jurisdiction and control of the authority that has jurisdiction and control over the adjacent portions of the remainder of the road and the Metropolitan Corporation shall not be liable for maintenance and repair of the surface of the road. 1978, c. 35, s. 7.

Dedication  
of lands  
abutting  
metropolitan  
roads for  
widening  
purposes

**77.** When land abutting on a metropolitan road is dedicated for highway purposes for, or apparently for, the widening of the metropolitan road, the land so dedicated is part of the metropolitan road and the soil and freehold thereof is vested in the Metropolitan Corporation subject to any rights in the soil reserved by the person who dedicated the land. R.S.O. 1970, c. 295, s. 77.

New roads

**78.** Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 70 by assuming such new roads as part of the metropolitan road system, and the provisions of the *Municipal Act* with respect to the establishment and laying out of highways by municipalities apply with necessary modifications. R.S.O. 1970, c. 295, s. 78.

R.S.O. 1980,  
c. 302

Powers and  
liabilities of  
Corporation

**79.** With respect to the metropolitan roads, the Metropolitan Corporation has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city under the *Municipal Act*, the *Highway Traffic Act* and

R.S.O. 1980,  
cc. 302, 198



any other Act with respect to highways. R.S.O. 1970, c. 295, s. 79.

**80.** The Metropolitan Council and the council of any area municipality may by by-law designate any lane on any road over which it has jurisdiction as a lane solely or principally for use by public transit motor vehicles, taxicabs and private motor vehicles carrying such number of passengers as may be specified in the by-law and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified, and, for the purposes of this section, "public transit motor vehicle" means any motor vehicle owned and operated by the Toronto Transit Commission as part of its regular passenger transportation service and such other class or classes of transit motor vehicles as may be specified in the by-law. 1980, c. 68, s. 1.

Reserved lanes for public transit motor vehicles, etc.

**81.**—(1) Subject to the *Highway Traffic Act*, the Metropolitan Corporation may,

Signal-light traffic control systems

- (a) install signal-light traffic control systems on any highway in the Metropolitan Area;
- (b) operate all signal-light traffic control systems heretofore or hereafter installed in the Metropolitan Area;
- (c) control its signal-light traffic control systems by electronic computers; and
- (d) regulate traffic on highways in the Metropolitan Area within 30.5 metres of any signal-light traffic control system and for such purpose the Metropolitan Corporation is deemed to be a municipality under section 169 of the *Highway Traffic Act*. R.S.O. 1970, c. 295, s. 80(1); 1978, c. 87, s. 42 (1).

R.S.O. 1980, c. 198

(2) When a by-law passed under subsection (1) regulating traffic on any part of a highway in the Metropolitan Area is in force, any by-law passed by an area municipality that conflicts therewith has no effect to the extent of such conflict.

Conflict with area by-laws

(3) No area municipality may, after the 1st day of July, 1962, install or operate signal-light traffic control systems in the Metropolitan Area.

Area municipalities not to operate signal systems

(4) All signal-light traffic control systems installed on highways in the Metropolitan Area are vested in the Metropolitan Corporation, and no compensation therefor shall be paid by the Metropolitan Corporation to any area municipality. R.S.O. 1970, c. 295, s. 80 (2-4).

Signal-lights vested in Metropolitan Corporation

**82.**—(1) Where the name of a highway is a duplication or is similar to the name of another highway in the Metropolitan Area, the Metropolitan Council may pass by-laws for changing

Names of highways

the name of any such highway, and no area municipality thereafter has power to change the name of such highway.

When by-law  
effective

(2) A by-law passed under subsection (1) shall recite the fact of such duplication or similarity, and the change shall take effect when a certified copy of the by-law is registered in the proper land registry office. R.S.O. 1970, c. 295, s. 81.

Speed  
limits on  
metropolitan  
roads

R.S.O. 1980,  
c. 198

**83.**—(1) The Metropolitan Council may by by-law prescribe a lower or higher rate of speed for motor vehicles driven upon any metropolitan road or any portion of a metropolitan road than is prescribed in subsection 109 (1) of the *Highway Traffic Act*, but such rate of speed shall not be less than 40 kilometres per hour or more than 100 kilometres per hour. R.S.O. 1970, c. 295, s. 82 (1); 1978, c. 87, s. 42 (2).

Marking  
of roads

(2) The metropolitan roads or portions thereof affected by a by-law passed under subsection (1) shall be marked to comply with the regulations made under the *Highway Traffic Act*. 1976, c. 72, s. 2.

Speed  
limits in  
metropolitan  
parks

**84.** The Metropolitan Council may by by-law prescribe the rate of speed for motor vehicles driven on lands vested in the Metropolitan Corporation under Part XVI in accordance with subsection 109 (3) of the *Highway Traffic Act*. R.S.O. 1970, c. 295, s. 83.

Use of  
sidewalks,  
etc.,  
metropolitan  
roads

**85.**—(1) The Metropolitan Council may by by-law empower the council of any area municipality to pass by-laws for the leasing or licensing of the use of the whole or any part of or all sidewalks and untravelled portions of Metropolitan roads within the area municipality for such purposes and upon such terms and conditions as are specified by the Metropolitan Council in the by-law.

Application of  
R.S.O. 1980,  
c. 302,  
Part XIX

(2) Part XIX of the *Municipal Act* applies with necessary modifications to any by-law passed by the council of an area municipality under the authority of a by-law passed by the Metropolitan Council under subsection (1). 1979, c. 64, s. 7.

Agreements  
for  
pedestrian  
walks

**86.** The Metropolitan Corporation may by by-law authorize agreements between the Metropolitan Corporation and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the cost thereof and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. R.S.O. 1970, c. 295, s. 85.

**87.** The Metropolitan Council may plant trees on a metropolitan road and the cost of the work shall be deemed to be part of the cost of repairing and maintaining the road. R.S.O. 1970, c. 295, s. 86. Planting trees

**88.**—(1) Sections 292 and 294 of the *Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the Metropolitan Area and an adjoining county where such bridge or highway is included in the metropolitan road system and in the county road system of the county. Disputes as to maintenance, etc., of bridges and highways  
R.S.O. 1980, c. 302

(2) When there is a difference between the Metropolitan Council and the council of a county in respect of any such bridge or highway as to the corporation upon which the obligation rests for the building, maintaining or keeping in repair of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the Metropolitan Council and the council of the county are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the Metropolitan Corporation or the corporation of the county. Idem

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or highway, and the Municipal Board may make such order in regard to the same as it considers just and proper, and may by the order fix and determine the amount or proportion which each municipality shall pay or contribute toward the building, maintaining and keeping in repair of such bridge or highway. Hearing by Municipal Board

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. R.S.O. 1970, c. 295, s. 87. Term of order

**89.** Clause 261 (1) (b) of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. R.S.O. 1970, c. 295, s. 88. Boundary bridges

**90.** Section 276 of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the Metropolitan Area and an adjoining Idem

ing county or regional municipality, and the councils of the area municipality and the local municipality in the adjoining county on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. R.S.O. 1970, c. 295, s. 89.

**Restrictions**

R.S.O. 1980,  
c. 379

**91.**—(1) The Metropolitan Council has, with respect to all land lying within a distance of forty-five metres from any limit of a metropolitan road, all the powers conferred on the council of a local municipality by section 39 of the *Planning Act*. R.S.O. 1970, c. 295, s. 90 (1); 1978, c. 87, s. 42 (3).

**Conflict with  
local by-law**

(2) In the event of conflict between a by-law passed under subsection (1) by the Metropolitan Council and a by-law passed under section 39 of the *Planning Act* or a predecessor of such section by the council of the area municipality in which the land is situate, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect. R.S.O. 1970, c. 295, s. 90 (2).

**Controlled-  
access roads**

**92.**—(1) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law designate any metropolitan road, or any portion thereof, as a metropolitan controlled-access road.

**Closing  
municipal  
roads**

(2) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law close any municipal road that intersects or runs into a metropolitan controlled-access road.

**Notice of  
application  
for approval  
of closing  
road**

(3) The Municipal Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such times, in such manner and to such persons as the Municipal Board may determine, and may further direct that particulars of claims in respect of land injuriously affected by the closing of the road shall be filed with the Municipal Board and the Metropolitan Corporation within such time as the Municipal Board shall direct.

**Claim, when  
not to be  
allowed**

(4) No claim by or on behalf of any person who has not filed the particulars of claim within the time directed by the Municipal Board shall be allowed except by leave of the Municipal Board.

**Order of  
Municipal  
Board**

(5) Upon the hearing of the application for approval of the closing of a road, the Municipal Board may make such order as it considers proper refusing its approval or granting its approval upon such terms and conditions as it considers proper, and any order of the Municipal Board approving of the closing of a road may contain provisions,



- (a) determining the portion or portions of the road that shall be closed;
- (b) providing that the approval shall be subject to the making of compensation to persons whose land is injuriously affected by the closing of the road,
  - (i) by the payment by the Metropolitan Corporation to any of such persons of such damages as may be fixed by the Municipal Board,
  - (ii) by the providing of another road for the use of any such persons,
  - (iii) by the vesting of any portion of the road allowance so closed in any of such persons notwithstanding any other Act, and
  - (iv) in such other manner as the Municipal Board considers proper;
- (c) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and
- (d) providing for the doing of such other acts as in the circumstances it considers proper.

(6) Upon the approval of the Municipal Board being so <sup>Closing road</sup> obtained but subject to the provisions of the order of the Municipal Board made on the application for such approval, the Metropolitan Corporation may do all such acts as may be necessary to close the road in respect of which the application is made.

(7) Where, at any time after making application for the <sup>Idem</sup> approval of the Municipal Board of the closing of a road, the Metropolitan Corporation discontinues its application or, having obtained such approval, does not proceed with the closing of the road and does not pay the compensation provided for in the order of the Municipal Board, the Municipal Board may, upon the application of any person whose land would be injuriously affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the Metropolitan Corporation as it considers proper and may fix the amount of such costs.

(8) Any person who claims to be injuriously affected by the <sup>Appeal</sup> closing of a road may, by leave of the Divisional Court, appeal to that court from any order of the Municipal Board approving the closing of such road, and the Metropolitan Corporation

may, upon like leave, appeal from any order of the Municipal Board made on an application under this section.

Leave to  
appeal

(9) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court considers just.

Practice and  
procedure  
on appeal

(10) The practice and procedure as to the appeal and matters incidental thereto shall be in accordance with the rules of court, and the decision of the Divisional Court is final.

R.S.O. 1980,  
c. 347, s. 95,  
not to apply

(11) Section 95 of the *Ontario Municipal Board Act* does not apply to an appeal under this section. R.S.O. 1970, c. 295, s. 91.

Private  
roads, etc.,  
opening upon  
metropolitan  
controlled-  
access road

**93.**—(1) The Metropolitan Corporation may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a metropolitan controlled-access road and may impose penalties for contravention of any such by-law.

Notice

(2) The Metropolitan Corporation may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road in contravention of a by-law passed under subsection (1).

Service of  
notice

(3) Every notice given under subsection (2) shall be in writing and shall be served personally or by registered mail and, in the case of service by registered mail, shall be deemed to have been received on the second day following the mailing thereof.

Failure to  
comply with  
notice

(4) Where the person to whom notice is given under subsection (2) fails to comply with the notice within thirty days after its receipt, the Metropolitan Corporation may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Offence

(5) Every person who fails to comply with a notice given under subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence.

Compensa-  
tion

(6) Where a notice given under subsection (2) has been complied with, the Metropolitan Corporation shall make due compensation to the owner of the land if the private road,

entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road was constructed or used, as the case may be,

- (a) before the day on which the by-law designating the road as a metropolitan controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection (1), in which case the making of compensation is subject to any provisions of such by-law. R.S.O. 1970, c. 295, s. 92 (1-6).

(7) Every claim for such compensation shall be determined in accordance with subsections 14 (2) to (5) of the *Public Transportation and Highway Improvement Act*, which subsections apply with necessary modifications. R.S.O. 1970, c. 295, s. 92 (7); 1971, c. 61, s. 1. Procedure

**94.** Sections 101, 103, 104, 105, 108 and 111 of the *Public Transportation and Highway Improvement Act* apply with necessary modifications to any metropolitan road. R.S.O. 1970, c. 295, s. 93; 1971, c. 61, s. 1. Application of  
R.S.O. 1980,  
c. 421

**95.** The Metropolitan Council may contribute such amount as the Metropolitan Council considers proper as its share of the cost of maintenance of the part of the Malton Road in the County of Peel extending from the County of York to the Malton Airport thereby assuming the liability of The Corporation of the City of Toronto under an agreement dated July 2, 1943, but not to exceed 25 per cent of the annual maintenance costs of such part of the road. R.S.O. 1970, c. 295, s. 94. Contribution  
towards  
maintenance  
of Malton  
Road

**96.—**(1) Where the Metropolitan Corporation assumes as a metropolitan road any road in an area municipality, other than a road mentioned in section 69, Metropolitan  
liability  
when road  
assumed

- (a) no compensation or damages shall be payable to the area municipality in which it was vested;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such road, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement work.

R.S.O. 1980,  
c. 250

Liability  
re Bayview  
bridge

(2) Notwithstanding subsection (1), the Metropolitan Corporation shall, after the 1st day of January, 1956, pay to The Corporation of the City of North York before the due date all amounts of principal and interest becoming due upon any outstanding debentures of the Bayview Avenue bridge that are payable as the owners' share of such local improvement work. R.S.O. 1970, c. 295, s. 95 (1, 2).

Default

(3) If the Metropolitan Corporation fails to make any payment as required by clause (1) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 8.

Settling  
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the road assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 95 (4).

Stopping-up  
highways

**97.**—(1) Where an area municipality intends to stop up a highway or part of a highway, it shall so notify the clerk of the Metropolitan Corporation by registered mail. 1974, c. 42, s. 6, *part*.

Agreement

(2) If the Metropolitan Council objects to such stopping-up, it shall so notify the council of the area municipality by registered mail within sixty days of the receipt of the notice under subsection (1) and the highway or part thereof concerned shall not be stopped-up except by agreement between the area municipality and the Metropolitan Council and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final. 1974, c. 42, s. 6, *part*; 1975, c. 22, s. 2.

Authorization  
to Executive  
Committee

(3) For the purposes of giving notice under subsection (2), the Metropolitan Council may by by-law authorize the Executive Committee, for such period of time as the by-law specifies, to exercise the powers of the Metropolitan Council, but no such notice is valid unless confirmed at the next regular meeting of the Metropolitan Council. 1980, c. 39, s. 5.

Approval  
of judge not  
required

(4) In the case of a township in the Metropolitan Area, it is not necessary to obtain the approval of the judge of the county court to such stopping up under section 298 of the *Municipal Act*.

R.S.O. 1980,  
c. 302



(5) No area municipality shall open up, establish or assume for public use any highway which intersects with or enters upon any highway in the metropolitan road system, without the prior written approval of the Metropolitan Corporation. 1974, c. 42, s. 6, *part*.

Approval  
required to  
intersect  
metropolitan  
road

## PART VII

### METROPOLITAN TRANSPORTATION

**98.** In this Part,

Interpre-  
tation

(a) "Commission" means the Toronto Transit Commission established under this Part;

(b) "Former Commission" means The Toronto Transportation Commission. R.S.O. 1970, c. 295, s. 97.

**99.** The Toronto Transit Commission is continued with the powers, rights, authorities and privileges vested in it by this Act. R.S.O. 1970, c. 295, s. 98.

Commission  
established

**100.**—(1) The Commission is a body corporate and shall consist of five members appointed by by-law of the Metropolitan Council.

Corporation  
members

(2) A member shall hold office until his successor is appointed, and, except in the case of the filling of a vacancy occurring during the term of office, a member shall be appointed for a term of three years.

Term of  
office

(3) For the purpose of instituting a three-year term on a staggered basis, the Metropolitan Council may designate the terms of office of the members in office on the 30th day of April, 1963.

Institution  
of three-  
year term

(4) The Metropolitan Council may provide that the Commission shall consist of not fewer than three members. R.S.O. 1970, c. 295, s. 99 (1-4).

Composition  
of  
Commission

(5) No person is eligible to be appointed as a member of the Commission unless that person is a resident of an area municipality. 1973, c. 171, s. 3.

Qualifica-  
tion

(6) Notwithstanding subsection (2), where a member of the Metropolitan Council is appointed as a member of the Com-

Term of  
office where  
member is  
member of  
Metropolitan  
Council

mission he shall not be appointed for a term of office extending beyond his term of office on the Council, and he shall cease to be a member of the Commission upon ceasing to be a member of the Metropolitan Council.

Two-thirds  
vote

(7) No appointment of a member of the Commission shall be made except on the affirmative vote of at least two-thirds of the members of the Metropolitan Council present and voting.

Re-  
appointment

(8) A member of the Commission is eligible for reappointment on the expiration of his term of office.

Vacancies

(9) Where the office of a member of the Commission becomes vacant during his term of office, the Metropolitan Council shall immediately appoint a member who shall hold office for the remainder of the term for which his predecessor was appointed.

Quorum

(10) A majority of the members of the Commission constitutes a quorum.

Remunera-  
tion

(11) The members of the Commission shall be paid such salary or other remuneration as may be fixed by by-law of the Metropolitan Council. R.S.O. 1970, c. 295, s. 99 (6-11).

Assets  
vested in  
Commission

**101.**—(1) On the 1st day of January, 1954, there is vested in the Commission,

- (a) all the undertaking, assets and real and personal property, wherever situate, owned by, vested in or held by the Former Commission, including the capital stock of Gray Coach Lines Limited held by it;
- (b) all real and personal property acquired or held by The Corporation of the City of Toronto for the purposes of or on behalf of the Former Commission;
- (c) all real and personal property acquired or held by any area municipality in respect of any service furnished by the Former Commission to such municipality or any portion thereof.

Liabilities

(2) The Commission, on the 1st day of January, 1954, shall assume all liabilities of the Former Commission, and shall assume all liabilities of any area municipality incurred in respect of any property vested in the Former Commission under subsection (1).

(3) Subject to section 113, no compensation or damages shall be payable to the Former Commission or any area municipality in respect of any undertaking, assets and property vested in the Commission under this section. No compensation or damages

(4) In the event of any doubt as to whether any particular asset or liability is vested in the Commission by this section, the Municipal Board, upon application, shall determine the matter and its decision is final and not subject to appeal. Settling of doubts

(5) For the purposes of the *Registry Act*, the *Land Titles Act*, the *Bills of Sale Act* or any other Act affecting title to property, it is sufficient to cite this Act to show the transmission of title to the Commission and the vesting therein of any real or personal property or any interest therein, but, if an order has been made by the Municipal Board under subsection (4), the order shall be cited as well. Transfer of title  
R.S.O. 1980,  
cc. 445, 230,  
43

(6) The Former Commission is dissolved as of the 1st day of January, 1954. Former Commission dissolved

(7) On or after the 1st day of January, 1954, the Commission in relation to the Toronto Transportation Commission Pension Fund Society, a corporation subject to Part V of the *Corporations Act* and incorporated by letters patent dated the 3rd day of January, 1940, shall stand in the place and stead of the Former Commission. Pension fund society  
R.S.O. 1980,  
c. 95

(8) The name of the said Toronto Transportation Commission Pension Fund Society is changed to "Toronto Transit Commission Pension Fund Society". R.S.O. 1970, c. 295, s. 100. Idem

**102.—**(1) The Commission may provide by contract with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act* or with a corporation to be known as the Toronto Transit Commission Sick Benefit Association, to be established subject to the *Co-operative Corporations Act*, for weekly sick-pay, special service, medical and surgical benefits for employees or any class thereof of the Commission and their wives or husbands and dependent children and retired employees in accordance with this section and for paying the whole or part of the cost thereof. Sick benefit plan  
R.S.O. 1980,  
cc. 218, 388,  
91

(2) The Commission shall only make contributions in respect of, Idem

- (a) regular employees who have been employed for at least sixty days with the Commission and their wives or husbands and dependent children;
- (b) retired employees who reside in Ontario and who elect to continue the benefits,

and shall not make contributions in respect of temporary or seasonal employees or dependants of regular employees other than wives or husbands and dependent children.

Special  
benefits  
for other  
dependants

(3) Special service and medical and surgical benefits may be provided for dependants other than wives or husbands and dependent children of regular employees, and for dependants of retired employees, who so elect, provided the cost thereof shall be borne by such employees.

Sick-pay  
benefits

(4) Sick-pay benefits shall not be provided for other than active regular employees of the Commission.

Greater  
sick-pay on  
election of  
employee

(5) Weekly sick-pay in an amount greater than may be provided under the other provisions of this section may be provided for such employees who elect to bear the excess cost of such greater sick-pay.

Administra-  
tion costs

(6) The Commission may assume the cost of the administration of the benefits provided under this section.

Benefits  
validated

(7) The sick-pay, special service and medical and surgical benefits provided or to be provided before the 1st day of January, 1961, and contributions made in relation thereto by The Toronto Transportation Commission, the Toronto Transit Commission, the Toronto Transportation Commission Sick Benefit Association and the Toronto Transit Commission Sick Benefit Association are hereby confirmed and declared to be legal and valid. R.S.O. 1970, c. 295, s. 101.

Existing  
agreements

**103.**—(1) Where the Former Commission has agreed with any area municipality or other municipality or person, or any two or more of them, for services to be provided by the Former Commission, the Commission shall, on the 1st day of January, 1954, assume all liabilities and is entitled to all benefits of the Former Commission under such agreement and the Former Commission is relieved of any liability thereunder.

Termination

(2) Notwithstanding subsection (1) and notwithstanding anything in any such agreement, the Municipal Board, upon the



application of the Commission or of any municipality or person who is a party to such agreement, may by order terminate or vary such agreement and adjust all rights and liabilities thereunder. R.S.O. 1970, c. 295, s. 102.

**104.** No further investment in the capital stock of Gray Coach Lines, Limited shall be made by the Toronto Transit Commission, nor shall the capitalization of Gray Coach Lines, Limited hereafter be increased until the consent of the Metropolitan Council is first obtained thereto. R.S.O. 1970, c. 295, s. 103.

**105.** On and after the 1st day of January, 1954, the Commission, <sup>Powers and duties of Commission</sup>

- (a) shall consolidate and co-ordinate all forms of local passenger transportation within the Metropolitan Area, with the exception of steam railways and taxis, and shall plan for the future development of such transportation so as to serve best the inhabitants of the Metropolitan Area;
- (b) has and may exercise, with respect to the entire Metropolitan Area, all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation which the Former Commission had with respect to any part of the Metropolitan Area on the 31st day of December, 1953;
- (c) has and may exercise all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation systems heretofore or hereafter conferred upon or exercisable by the council or corporation of any area municipality, and such powers, rights, authorities and privileges shall not be exercised by any area municipality or its council or by the Metropolitan Corporation or the Metropolitan Council. R.S.O. 1970, c. 295, s. 104.

**106.**—(1) The Commission has, in particular, but not so as <sup>Specific powers</sup> to restrict its general powers and duties, the following powers and duties:

- (a) To construct, maintain, operate, extend, alter, repair, control and manage a local transportation system

within the Metropolitan Area by means of surface, underground or overhead railways, tramways or buses, or any other means of local transportation except steam railways and taxis.

- (b) To establish new local passenger transportation services in the Metropolitan Area as and when required and to alter, curtail or abolish any services if the Commission considers it desirable so to do.
- (c) If the Commission considers it desirable, to establish, construct, manage and operate parking lots for the parking of vehicles in connection with its local passenger transportation system, and to charge fees for parking therein.
- (d) Subject to section 107, to fix such tolls and fares and establish such fare zones so that the revenue of the Commission shall be sufficient to make all transportation facilities under its control and management selfsustaining, after providing for such maintenance, renewals, depreciation, debt charges and reserves as it may think proper.
- (e) To purchase, lease, acquire and use any real or personal property for its purposes, but the Commission shall not acquire any property that is to be paid for by moneys raised on the issue of debentures of the Metropolitan Corporation unless the approval of the Metropolitan Council has first been obtained.
- (f) To make requisitions upon the Metropolitan Corporation for all sums of money necessary to carry out its powers and duties, but nothing in this Act divests the Metropolitan Council of its authority with reference to providing the money required for such works, and when such money is provided by the Metropolitan Corporation the treasurer of the Metropolitan Corporation shall upon the certificate of the Commission pay out any money so provided.
- (g) To engage in the business of providing consulting services in transit related matters within or outside the Metropolitan Area, either directly or through a subsidiary, provided that the investment by the Commission in the capital stock of the subsidiary, shall not exceed the sum of \$100,000 without the consent of the Metropolitan Council. R.S.O. 1970, c. 295, s. 105 (1); 1980, c. 68, s. 2.

(2) The power of the Metropolitan Council to acquire land for the purposes of the Metropolitan Corporation includes the power to acquire land for the purposes of the Commission. Acquisition of land  
R.S.O. 1970, c. 295, s. 105 (2).

**107.**—(1) Subject to the approval of the Municipal Board, the Metropolitan Corporation may contribute to the capital costs of the Commission. Metropolitan Corporation contributions, to capital costs

(2) The Metropolitan Corporation may contribute to the cost of operating the transportation system operated by the Commission. to operating costs  
R.S.O. 1970, c. 295, s. 106.

**108.**—(1) The Commission may enter into an agreement with any person, or with one or more area municipalities, or with one or more other municipalities situated within twenty-five miles of the Metropolitan Area, under which the Commission will operate a local passenger transportation service upon such terms as may be agreed upon, but every such agreement shall provide that any deficit in operations shall be paid by the person or municipality or municipalities, and if the agreement is with one or more municipalities the agreement shall provide that any surplus in operations shall be credited to the municipality or municipalities. Agreements

(2) Where an agreement is entered into under subsection (1) with one or more municipalities, the council of any such municipality may pass by-laws, Surplus or deficit

(a) providing that any deficit charged to the municipality shall be payable out of, and any surplus shall be credited to, the general funds of the municipality; or

(b) with the approval of the Municipal Board, providing that any deficit shall be assessed against, and any surplus shall be credited to, the rateable property in any area or areas of the municipality defined in the by-law. R.S.O. 1970, c. 295, s. 107.

**109.** In clauses 106 (1) (a) and (b) and in subsection 110 (1), "Metropolitan Area" shall be deemed to include the whole of Steeles Avenue where it is a boundary of an area municipality. Interpretation  
R.S.O. 1970, c. 295, s. 108.

**110.**—(1) For the purposes of the *Public Vehicles Act* and the regulations with respect to registration fees under the *Highway Traffic Act*, the Metropolitan Area shall be deemed to be one urban municipality and, for the purpose of the Application of R.S.O. 1980, cc. 425, 198, 407

*Public Commercial Vehicles Act*, the Metropolitan Area shall be deemed to be one urban zone. R.S.O. 1970, c. 295, s. 109 (1).

Exclusive  
authority

(2) Except in accordance with an agreement made under subsection (3), no person other than the Commission shall, after the 1st day of July, 1954, operate a local passenger transportation service within the Metropolitan Area, with the exception of steam railways, taxis, horse-drawn vehicles used for the purpose of providing sightseeing tours, buses owned and operated by or operated pursuant to a contract with a board of education, school board or private school and buses owned and operated by any corporation or organization solely for the purposes of the corporation or organization provided no fare or fee is charged for transportation. R.S.O. 1970, c. 295, s. 109 (2); 1975, c. 22, s. 3.

Agreements

(3) An agreement may be entered into between the Commission and any person legally operating a local public passenger transportation service wholly within or partly within and partly without the Metropolitan Area on the 1st day of January, 1954, under which such person may continue to operate such service or any part thereof for such time and upon such terms and conditions as such agreement provides.

Existing  
services

(4) Where a local public passenger transportation service is legally operating wholly within the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection (2) to cease to operate within the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection (3),

(a) the Commission may agree with the owner of the service, not later than one month before the date upon which the service will be required to cease to operate, to purchase the assets and undertaking used in providing the service; and

(b) if no agreement is entered into under clause (a), the assets and undertaking used in providing the service, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

Idem

(5) Where a local public passenger transportation service is legally operating partly within and partly without the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection (2) to cease to operate within the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection (3),

(a) the Commission may agree with the owner of the service, not later than one month before the date



upon which the service will be required to cease to operate within the Metropolitan Area, to purchase the assets and undertaking used in providing the entire service or to purchase the portion thereof that is allocated to the provision of the service within the Metropolitan Area; and

- (b) if no agreement is entered into under clause (a), the portion of the assets and undertaking that is allocated to the provision of the service within the Metropolitan Area, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

(6) Where the whole or a portion of the assets and undertaking used in or allocated to the provision of a local public passenger transportation service vests in the Commission, the Commission shall pay due compensation therefor to the owner thereof, based upon the value to the owner of the assets and undertaking used in providing the service where the service was operated wholly within the Metropolitan Area, and based upon the proportion of such value that is allocated to the provision of the service within the Metropolitan Area where the service was operated partly within and partly without the Metropolitan Area.

(7) The amount of any compensation payable under this section or any question of allocation, if not mutually agreed upon, shall be determined by the Municipal Board, and the decision of the Municipal Board on any question of allocation is final.

(8) The Commission shall be deemed to be a street railway company for the purposes of *The Railways Act*.

Compensation and allocation  
Application of R.S.O. 1950, c. 331

(9) Where a local public passenger transportation service operating partly within and partly without the Metropolitan Area is required by subsection (2) to cease to operate within the its service beyond the Metropolitan Area, the Municipal Board may, on the application of any municipality, order the Commission to furnish a similar service upon such terms and conditions and to such extent as may be fixed by the Municipal Board.

Outside service

(10) Where the Municipal Board orders the Commission to furnish a service under subsection (9), the Commission shall be deemed to have applied for an operating licence under the *Public Vehicles Act*, and the Ontario Highway Transport Board shall issue a certificate of public necessity and convenience, with respect thereto.

Certificate of public necessity and convenience

R.S.O. 1980, c. 425

## Offence

(11) Every person who contravenes any of the provisions of subsection (2) is guilty of an offence and on conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence. R.S.O. 1970, c. 295, s. 109 (3-11).

## Annual report

**111.** Immediately after the close of each calendar year, the Commission shall prepare, deliver to the Metropolitan Council, and publish,

(a) a complete audited and certified financial statement of its affairs, including revenue and expense account, balance sheet and profit and loss statement;

(b) a general report of its operations during that calendar year. R.S.O. 1970, c. 295, s. 110.

Actions, etc.,  
against  
Commission

**112.**—(1) All claims, actions and demands arising from or relating to the construction, maintenance, operation, extension, alteration, repair, control and management of the Commission's transportation system and property, or arising from the exercise of any of the powers of the Commission, shall be made upon and brought against the Commission and not upon or against the Metropolitan Corporation or any area municipality.

## Idem

(2) The Commission may sue and be sued in its own name. R.S.O. 1970, c. 295, s. 111.

Existing  
debenture  
liability

**113.**—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by that area municipality in respect of any property vested in the Commission under subsection 101 (1) or issued by that area municipality for or on behalf of the Former Commission.

Payments by  
Commission

(2) The Commission shall pay to the Metropolitan Corporation, before the date mentioned in subsection (1), the amount which the Metropolitan Corporation is liable to pay on that date under subsection (1). R.S.O. 1970, c. 295, s. 112 (1, 2).

## Default

(3) If the Metropolitan Corporation fails to make any payment as required by subsection (1), or if the Commission fails to make any payment as required by subsection (2), the area municipality may charge the Metropolitan Corporation, or the Metropolitan Corporation may charge the Commission, as the case may be, interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality or the Metropolitan Council determines, from the date payment is due until it is made. 1979, c. 64, s. 9.

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of any property vested in the Commission under subsection 101 (1) or for or on behalf of the Former Commission, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 112 (4). Settling  
of doubts

**114.** The Metropolitan Council may expend moneys and make grants to the Commission in such amounts and on such terms and conditions as the Council may consider appropriate to meet the cost of providing transportation free of charge or at a reduced rate for persons resident in the Metropolitan Area who are sixty-five years of age or over, or for any class or classes of such persons. R.S.O. 1970, c. 295, s. 114. Grants, etc.,  
re free or  
reduced rate  
transporta-  
tion for  
the aged

**115.**—(1) So long as any lands and easements owned by the Metropolitan Corporation or by the Commission are used by the Commission for the purpose of a subway or other rapid transit or as car yards or shops for or in connection with such subway or other rapid transit, such lands and easements and buildings and structures thereon so owned and used are exempt from business and real property taxation, and the Commission is not liable for payments in lieu thereof under section 26 of the *Assessment Act*. Tax  
exemption  
re subway  
and other  
rapid transit

R.S.O. 1980,  
c. 31

(2) Subsection (1) does not apply to concessions operated, rented or leased in subway or rapid transit stations. Application  
to  
concessions

(3) The exemption provided by subsection (1) shall be deemed to be an exemption from taxation provided by section 3 of the *Assessment Act*. R.S.O. 1970, c. 295, s. 115. Deemed  
exemption  
under  
R.S.O. 1980,  
c. 31, s. 3

## PART VIII

### EDUCATION

**116.** In this Part,

Interpre-  
tation

(a) “Minister” means the Minister of Education;

(b) “Ministry” means the Ministry of Education;

(c) “regulations” means regulations made under the *Education Act*;

R.S.O. 1980,  
c. 129

(d) “resident pupils” means pupils,

- (i) who reside with their parents or guardians, or
- (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

within the limits of a secondary school district for secondary school purposes, or a school section for public school purposes, within the Metropolitan Area, but does not include pupils residing with their parents or guardians on land that is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for secondary school purposes or public school purposes, respectively, in the secondary school district or school section;

- (e) "School Board" means The Metropolitan Toronto School Board. R.S.O. 1970, c. 295, s. 116; 1972, c. 1, ss. 1, 61 (2, 7).

Area municipality a secondary school district, urban school section

**117.** Each area municipality is a secondary school district and is deemed to be an urban school section. R.S.O. 1970, c. 295, s. 117.

Boards of education in area municipalities

**118.—**(1) On and after the 1st day of January, 1967, there shall be a board of education for each area municipality, to be known respectively as,

- (a) The Board of Education for the Borough of East York;
- (b) The Board of Education for the Borough of Etobicoke;
- (c) The Board of Education for the City of North York;
- (d) The Board of Education for the Borough of Scarborough;
- (e) The Board of Education for the City of Toronto; and
- (f) The Board of Education for the Borough of York. R.S.O. 1970, c. 295, s. 118 (1); 1979, c. 90, s. 2.

Members elected by public school electors

- (2) The number of members to be elected by public school electors to the boards of education,



(a) for the City of Toronto and for the boroughs of Etobicoke and East York shall be two in each ward of the city or borough, as the case may be;

(b) for each of the other area municipalities shall be one in each ward of the area municipality. 1972, c. 54, s. 2.

(3) Nothing in subsection (2) prevents the changing of the com-  
position of a board of education and the election of the members thereof in accordance with the provisions of the *Education Act*. Application of R.S.O. 1980, c. 129

(4) The members of such boards of education shall hold office for a two-year term and until their successors are elected or appointed and a new board organized. Term of office R.S.O. 1970, c. 295, s. 118 (4); 1972, c. 168, s. 3.

(5) On the day on which each such new board of education holds its first meeting, Dissolution of former boards of education

(a) the board or boards of education having jurisdiction in the area municipality for which such new board of education is established are dissolved; and

(b) all the assets and liabilities of the former board or boards of education are assets and liabilities of such new board of education. R.S.O. 1970, c. 295, s. 118 (5).

**119.**—(1) The provisions of the *Education Act* and the regulations that are not inconsistent with this Act apply to the boards of education referred to in subsection 118 (1), and, so far as such provisions are inconsistent with this Act, they do not apply to such boards of education. Application of R.S.O. 1980, c. 129 1978, c. 45, s. 1 (1).

(2) Each such board of education has all the powers, duties and responsibilities conferred and imposed upon it by any general or special Act and regulations made thereunder that are not inconsistent with the provisions of this Act, and shall comply with all the requirements of this Act that apply to them. Powers and duties R.S.O. 1970, c. 295, s. 119 (2).

(3) Each such board of education may borrow money under section 217 of the *Education Act* only with the approval of the Metropolitan Council on the recommendation of the School Board. Borrowing powers R.S.O. 1970, c. 295, s. 119 (3); 1978, c. 45, s. 1 (3).

Director of  
education  
R.S.O. 1980,  
c. 129

(4) Each such board of education shall have a director of education appointed under Part X of the *Education Act*, and he shall also be the secretary and treasurer of such board. R.S.O. 1970, c. 295, s. 119 (4); 1978, c. 45, s. 1 (4).

Eligibility  
of employee  
of board to  
be member

(5) An employee of a board of education in the Metropolitan Area or of the School Board is not eligible to be a member of any board of education in the Metropolitan Area. R.S.O. 1970, c. 295, s. 119 (5).

First  
meeting

**120.** The first meeting of each such board of education after a regular election shall be held not later than the seventh day following the day on which the terms of office of the elected members commence at such place and time as the board may determine. . 1978, c. 45, s. 2.

School  
Board  
continued

**121.**—(1) The Metropolitan School Board is continued a corporation under the name of The Metropolitan Toronto School Board with the powers and duties and for the purposes set out in this Act. R.S.O. 1970, c. 295, s. 121 (1).

Composition  
of School  
Board

(2) On and after the 1st day of December, 1980, the School Board, subject to subsection (6), shall be composed of the chairman of each board of education in the Metropolitan Area and,

- (a) one member of and appointed by The Board of Education for the Borough of Etobicoke;
- (b) three members of and appointed by The Board of Education for the City of North York;
- (c) three members of and appointed by The Board of Education for the Borough of Scarborough;
- (d) five members of and appointed by The Board of Education for the City of Toronto; and
- (e) three members appointed by the Metropolitan Separate School Board who may be members of such board. 1980, c. 42, s. 1.

Alternate  
members

(3) The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of

the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6). R.S.O. 1970, c. 295, s. 121 (3); 1972, c. 54, s. 4 (2).

(4) The appointment of members of a board of education as members of the School Board shall be made at the first meeting of the board of education in each year after elections have been held in the area municipalities. Appointment by boards of education

(5) At the first meeting of the School Board in each year, at which a quorum is present, the School Board shall elect as chairman one of its members to hold office for that year and until his successor is elected in accordance with this section. R.S.O. 1970, c. 295, s. 121 (4, 5). Election of chairman

(6) A member of a board of education for an area municipality who is, Disqualification of member of board of education

(a) elected by separate school supporters; or

(b) appointed, in the case of a vacancy, by the remaining members elected to the board of education by separate school supporters or by the Metropolitan Separate School Board,

is not eligible to be a member of the School Board and, where such member is the chairman of the board of education, the board of education shall appoint in his stead another member thereof as a member of the School Board.

(7) No person employed by the School Board is eligible to be a member of the School Board. 1972, c. 54, s. 4 (3). Disqualification of employee

**122.**—(1) The first meeting of the School Board after a regular election shall be held after the boards of education for the area municipalities have held their first meetings, but in any event, not later than the fourteenth day following the day on which the terms of office of the members of such boards of education commence, at such place and time as may be fixed by resolution of the School Board. 1978, c. 45, s. 3. First meeting of School Board

(2) At the first meeting of the School Board in each year after elections have been held in the area municipalities, at which a quorum is present, the members present shall select a member to preside, and the person so selected may vote as a member, and the School Board shall organize as a board. R.S.O. 1970, c. 295, s. 122 (2). Organization meeting

Certificate  
of qual-  
ification

(3) A person entitled to be a member of the School Board under subsection 121 (2) or (6) or an alternate member of the School Board under subsection 121 (3) shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the secretary of the board of education of which he is the chairman or by which he was appointed, or of the Metropolitan Separate School Board, as the case may be, and under the seal of such board certifying that he is entitled to be a member or an alternate member, as the case may be. R.S.O. 1970, c. 295, s. 122 (3); 1972, c. 54, s. 5.

Certificates  
of office

(4) No business shall be proceeded with at the first meeting until after the certificates mentioned in subsection (3) have been filed by all the members who present themselves for that purpose.

When School  
Board  
deemed  
organized

(5) The School Board shall be deemed to be organized when the certificates have been filed by at least nine members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to file such certificate. R.S.O. 1970, c. 295, s. 122 (4, 5).

Place of  
meetings

**123.** Subject to section 122, all meetings of the School Board shall be held at such places within the Metropolitan Area and at such times as the School Board from time to time appoints. R.S.O. 1970, c. 295, s. 123.

Quorum,  
voting

**124.**—(1) Eight members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and ten members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter.

One vote

(2) Each member of the School Board has one vote only. R.S.O. 1970, c. 295, s. 124 (1, 2).

Voting by  
separate  
school repre-  
sentatives

(3) A member of the School Board appointed by the Metropolitan Separate School Board shall not vote or otherwise take part in any of the proceedings of the School Board exclusively affecting the public schools. R.S.O. 1970, c. 295, s. 124 (3); 1972, c. 54, s. 6.

Term of  
office

**125.**—(1) The members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new School Board is organized, provided that, if, as the result of a change in the chairman-



ship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. R.S.O. 1970, c. 295, s. 125 (1).

(2) The members of the School Board appointed by the Metropolitan Separate School Board, shall hold office for two years and until their successors are appointed. R.S.O. 1970, c. 295, s. 125 (2); 1972, c. 89, s. 3.

**126.**—(1) When a vacancy occurs in the office of chairman, the School Board shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect as chairman one of its members to hold office for the remainder of the term of his predecessor.

(2) When a vacancy occurs in the office of an appointed member, other than a member appointed by the Metropolitan Separate School Board, the board of education of which he was a member shall, within fifteen days after the vacancy occurs, appoint his successor from among its members to hold office for the remainder of the term of his predecessor.

(3) When a vacancy occurs in the office of a member appointed by the Metropolitan Separate School Board, that board shall, within fifteen days after the vacancy occurs, appoint his successor to hold office for the remainder of the term of his predecessor.

(4) Where the chairman of the School Board is a member of a board of education, he may resign his office as chairman without resigning from such board of education.

(5) The seat of a member of the School Board shall become vacant if he absents himself from the meetings of the School Board for three consecutive months without being authorized so to do by a resolution of the School Board entered upon its minutes, and the School Board shall forthwith declare the seat to be vacant. R.S.O. 1970, c. 295, s. 126.

**127.**—(1) It is the duty of the School Board and it has power,

- (a) to require each board of education within the Metropolitan Area to prepare and submit to the School Board, from time to time as the School Board may prescribe, its proposals and recommendations with

respect to the provision of adequate public elementary and secondary school accommodation within its jurisdiction, and the estimated cost thereof;

- (b) to review and consolidate all such proposals, in consultation with the boards of education, the Ministry and the Metropolitan Council and their respective officials, and to prepare and revise from time to time a composite proposal and the recommendations of the School Board for the provision of adequate public elementary, academic secondary and vocational secondary school accommodation for the Metropolitan Area as a whole;
- (c) to submit to the Metropolitan Council from time to time the composite proposal referred to in clause (b), together with all relevant information with respect thereto;
- (d) notwithstanding the provisions of this or any other Act, to review and to determine, in consultation with the respective boards of education, the boundaries of the attendance areas for those public elementary and secondary schools in the Metropolitan Area that are to be attended by resident pupils from more than one school section or secondary school district;
- (e) to appoint a director who holds a certificate of qualification as a supervisory officer, who shall be secretary-treasurer of the School Board, and such other officers and staff as may be considered expedient for the purposes of the School Board, to pay their salaries and, subject to the regulations, to prescribe their duties, and to provide and pay for office accommodation, furnishings, fuel, light, stationery, equipment, insurance and miscellaneous expenses, including travelling expenses of officers and members of the School Board, if authorized by the School Board;
- (f) if considered expedient, to pay to each member an allowance in such amount as may be determined by the School Board for each kilometre necessarily travelled by him in going to the meetings of the School Board from his home and in returning to his home, and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an

allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board;

(g) to prepare, adopt and submit each year to the Metropolitan Council, on or before such date and in such form as the Metropolitan Council may prescribe, the estimates of the School Board for the current year, separately for public elementary and for secondary school purposes, of all sums required to meet its expenditures and obligations under this Act, and such estimates,

(i) shall set forth the estimated revenues and expenditures of the School Board,

(ii) shall make due allowance for a surplus of any previous year that will be available during the current year,

(iii) shall provide for a deficit of a previous year,

(iv) shall provide for the amounts of principal and interest payable during the current year in respect of all outstanding debentures issued for school purposes,

(v) may provide for expenditures to be made out of current funds for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act*, provided that the expenditures for permanent improvements referred to in sub-paragraphs 1, 2 and 3 of paragraph 33 of subsection 1 (1) of that Act do not exceed,

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(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar upon the total assessment in the Metropolitan Area, and

- (B) for public school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar upon the assessment in the Metropolitan Area rateable for public school purposes,

according to the last revised assessment rolls.  
R.S.O. 1970, c. 295, s. 127; 1972, c. 1, s. 1; 1978, c. 87, s. 42 (4); 1979, c. 90, s. 4.

Additional  
powers

(2) The School Board may,

- (a) include in its estimates a sum for expenditures by or on behalf of one or more boards of education within the Metropolitan Area without designating such board or boards and, when such board or boards have been designated, pay amounts from such sum to or on behalf of such board or boards;
- (b) hold conferences with members and officers of the boards of education for the area municipalities and pay all or part of the costs incurred in connection with such conferences including all or part of the expenses of members and officers of the School Board and of the boards of education for the area municipalities; and

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- (c) authorize the destruction of documents in accordance with the *Education Act*. 1972, c. 54, s. 7.

Auditors for  
school board,  
etc.

**128.** Section 207 of the *Education Act* applies with necessary modifications to the School Board as if it were a divisional board of education. 1972, c. 54, s. 8.

Interpre-  
tation

**129.**—(1) In this section, “sub-system” means an identifiable, predesigned, physically integrated, co-ordinated series of parts that function as a unit of the construction of a building. R.S.O. 1970, c. 295, s. 128 (1).

Sub-systems

(2) Where one or more boards of education within the Metropolitan Area have agreed to participate with the School



Board in a unified school building construction program, the School Board has power,

- (a) to enter into contracts with persons for the production of sub-systems to be used in the construction of schools by such boards of education and to give commitments to such persons that the sub-systems that they contract to produce will be used in the construction of a minimum of square metres of school building construction;
  - (b) to enter into contracts with persons for the performance of work or services or for the placing or furnishing of materials upon or in respect of such school building construction;
  - (c) to require such boards of education to construct the school buildings necessary to fulfil commitments given by the School Board and to use in constructing such buildings the sub-systems, services and materials of the persons with whom the School Board has entered into contracts; and
  - (d) to supervise and control the programming and integration of the construction of such school buildings.
- R.S.O. 1970, c. 295, s. 128 (2); 1978, c. 87, s. 42 (5).

**130.**—(1) Section 155, 156 and 158 of the *Education Act* apply with necessary modifications to the School Board.

Application of  
R.S.O. 1980,  
c. 129, ss. 155,  
156 and 158

(2) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purpose of any pension plan of such board of education, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the board of education, until the School Board has provided a pension plan for its employees and such employee has elected, in writing, to participate therein.

Pensions

(3) Until such election, the School Board shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the board of education, and the School Board shall pay to the board of education in instalments,

Idem

(a) the amounts so deducted; and

(b) the future service contributions payable under the plan by the board of education.

Sick leave  
credits

(4) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purposes of any sick leave credit plan of such board of education until the School Board has established a sick leave credit plan for its employees, whereupon the School Board shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the board of education. R.S.O. 1970, c. 295, s. 129.

Payment  
by Metro-  
politan  
Corporation

**131.**—(1) The Metropolitan Corporation shall pay to the School Board, in monthly instalments, the moneys required by the School Board as shown in its estimates submitted under clause 127 (g), except the moneys required for the purposes of subclauses (iv) and (v) of such clause, and the moneys required for the purposes of such subclause (v) shall be paid to the School Board from time to time as required.

Payment  
by School  
Board to  
boards of  
education

(2) The School Board shall pay to each board of education in the Metropolitan Area, in monthly instalments, the moneys required by such board of education as shown in its estimates approved by the School Board, except moneys approved for permanent improvements, which shall be paid to such board of education from time to time as required, but the total of such monthly payments shall be reduced by the amounts, if any, that are deducted from the legislative grants for payment to the Teachers' Superannuation Fund and the Canada Pension Plan on behalf of the teachers employed by that board of education. R.S.O. 1970, c. 295, s. 130.

Legislative  
grants

**132.**—(1) The special and general legislative grants, which but for this Act would be payable to boards of education in the Metropolitan Area, shall be calculated as provided in the regulations.

Grants  
payable  
to School  
Board

(2) The special and general legislative grants, except those paid to boards of education under subsection (3), shall be paid to the School Board. R.S.O. 1970, c. 295, s. 131 (1, 2).

Grants  
payable to  
boards of  
education

(3) The legislative grants in respect of expenditures made by a board of education for the construction of classrooms to the

extent that such expenditures were approved by the Minister and raised entirely by levies under subsection 133 (5) in the area municipality in which such board of education has jurisdiction, shall be paid to the board of education. R.S.O. 1970, c. 295, s. 131 (3); 1972, c. 54, s. 9.

**133.**—(1) Each board of education in the Metropolitan Area, instead of submitting to a municipal council its annual estimates as provided by law, shall prepare, adopt and submit each year to the School Board, on or before such date and in such form as the School Board may prescribe, its estimates for the current year, separately for public elementary and for secondary school purposes, of all sums required during the year for the purposes of the board of education, and such estimates,

Estimates  
of boards  
of education

- (a) shall set forth the estimated revenues and expenditures of the board of education;
- (b) shall make due allowance for a surplus of any previous year that will be available during the current year;
- (c) shall provide for a deficit of any previous year;
- (d) may provide for expenditures to be made out of current funds for permanent improvements.

(2) Upon receipt by the School Board of the estimates of all the boards of education in the Metropolitan Area, the School Board shall consider the estimates, having regard to the limit upon the amount that it may include in its estimates for expenditures for permanent improvements out of current funds, and approve such estimates in whole or in part, and shall notify each such board of education of the extent to which its estimates have been approved by the School Board.

Approval of  
estimates  
by School  
Board

(3) In considering such estimates, the School Board shall endeavour to provide for all boards of education in the Metropolitan Area, having regard to their varying needs, the funds necessary for an educational program throughout the Metropolitan Area.

Idem

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which it has jurisdiction, within twenty days after notice is given under sub-

Estimates to  
council of  
area municipality

section (2), its estimates made up as provided for in subsection (1), except that such estimates shall include and make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board, provided that, before submitting such estimates to the council, the board of education shall revise the estimates, if necessary, so that the difference between,

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total assessment in the area municipality for public school purposes according to the last revised assessment roll; and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total assessment in the area municipality for secondary school purposes according to the last revised assessment roll.

Local  
levy

(5) The council of each area municipality shall levy and collect each year and transfer to the board of education for that area municipality from time to time as required, but not later than the 15th day of December, such sums as may be required by the board of education for its purposes during the year in accordance with its estimates submitted to the council under subsection (4).

Idem

(6) The amount required to be raised by the council of each area municipality under subsection (5),

- (a) for public school purposes, shall be raised by levy upon the whole rateable property rateable for public school purposes; and
- (b) for secondary school purposes, shall be raised by levy upon the whole rateable property rateable for secondary school purposes,

within the area municipality according to the last revised assessment roll thereof.



(7) If the estimates of a board of education are not approved in whole by the School Board, the board of education may, within fifteen days after notice is given under subsection (2), appeal to the Municipal Board, provided that any amount in issue in such an appeal shall not be included in its estimates under subsection (4).

Appeal to  
O.M.B.

(8) The Municipal Board shall conduct a public hearing of every such appeal upon such notice as it considers proper and may dismiss the appeal or may by order require the School Board to provide additional funds to the board of education to an extent not exceeding the amounts in issue in such appeal, and, in considering any such appeal, the Municipal Board shall have regard amongst other things to the matters referred to in subsections (2) and (3).

Powers of  
O.M.B.

(9) If an order of the Municipal Board requiring the School Board to provide additional funds to a board of education,

Where order  
requires  
additional  
funds to be  
provided

(a) is issued in any year before the estimates of the School Board for such year are submitted to the Metropolitan Council, the School Board shall include in its estimates for that year the amount required to be paid pursuant to the order; or

(b) is issued in any year after the estimates of the School Board for such year are submitted to the Metropolitan Council, the Metropolitan Council shall advance to the School Board the amount required to be paid pursuant to the order and may borrow money from time to time by way of promissory note for such purpose, and the School Board shall include in its estimates for the next succeeding year the amount required to repay such advance and the interest charges on any amounts borrowed by the Metropolitan Council for the purpose of making such advance.

(10) The Municipal Board may issue an order under subsection (8) upon such terms and conditions, including terms and conditions with respect to the use of the funds to be paid to the board of education thereunder, as the Municipal Board considers appropriate. R.S.O. 1970, c. 295, s. 132.

Order,  
terms and  
conditions

**134.**—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area muni-

School  
debenture  
liability

pality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality for public or secondary school purposes. R.S.O. 1970, c. 295, s. 133 (1).

**Default**

(2) If the Metropolitan Corporation fails to make any payments as required by subsection (1), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 10.

**Settling  
of doubts**

(3) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for public or secondary school purposes, the Municipal Board, upon application, may determine the matter, and its decision is final. R.S.O. 1970, c. 295, s. 133 (3).

**Property  
vested in  
Scarborough  
Board of  
Education**

**135.**—(1) All real property in that portion of the Township of Pickering annexed to The Corporation of the Borough of Scarborough under subsection 150 (2) vested in The Ontario County Board of Education on the 31st day of December, 1973, is vested in The Board of Education for the Borough of Scarborough.

**Liability of  
Metropolitan  
Corporation**

(2) No compensation shall be payable by The Board of Education for the Borough of Scarborough, but on or after the 1st day of January, 1974, the Metropolitan Corporation shall pay to The Corporation of the Town of Pickering before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued in respect of any property vested in The Board of Education for the Borough of Scarborough under subsection (1), and The Corporation of the Town of Pickering shall reimburse the Borough of Scarborough for the amount of any payments made by the Borough of Scarborough to The Corporation of the Town of Pickering in respect of such debentures.

**Liability for  
debenture  
payments  
made by  
Metropolitan  
Corporation**

(3) All amounts of principal and interest becoming due in respect of the debentures referred to in subsection (2) shall be included in the estimates of the School Board under subclause 127 (1) (g) (iv) and shall be repaid by levies against all the area municipalities. 1974, c. 114, s. 3.

**Liability  
for school  
debentures  
issued by  
the Metro-  
politan  
Corporation**

**136.** Notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due on and after the 1st day of January, 1967, with respect to any debentures issued

for public or secondary school purposes by the Metropolitan Corporation since the 1st day of January, 1954, or issued hereafter, shall be repaid by levies against all the area municipalities. R.S.O. 1970, c. 295, s. 134.

**137.**—(1) Notwithstanding the provisions of this or any other Act, no board of education in the Metropolitan Area, Discontinuation and sale of schools

- (a) shall discontinue the operation and maintenance of any school under its jurisdiction; or
- (b) shall sell, lease or otherwise dispose of any school site or school building, or any item of school property the cost of which was financed in whole or in part by the issue of debentures,

without the approval of the School Board.

(2) Where a board of education sells, leases or otherwise disposes of any school site or school building in accordance with clause (1) (b), it shall pay the proceeds of such sale to the School Board. Proceeds of sale of property

(3) The School Board shall use the proceeds of the disposal of property paid to it under subsection (2) only for permanent improvements, Use of proceeds

- (a) if such property was used for public school purposes, for public school purposes; or
- (b) if such property was used for secondary school purposes, for secondary school purposes. R.S.O. 1970, c. 295, s. 135.

**138.** A board of education with the approval of the School Board may transfer property that was acquired for public school purposes to secondary school purposes or *vice versa*, and, where property is so transferred, the transfer shall be made effective on the 1st day of January in any year and the principal and interest on any debentures issued with respect to such property to be raised in that year and subsequent years by levy shall be raised by levy on the whole rateable property rateable for the purposes to which such property is transferred. R.S.O. 1970, c. 295, s. 136. Transfer of public school property to secondary school purposes and vice versa

**139.**—(1) Where a board of education in the Metropolitan Area desires that the sums required for permanent Application for debentures for school purposes

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improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* shall be raised by the issue and sale of debentures, it may apply to the School Board and it shall at the same time deliver a copy of such application to the clerk of the Metropolitan Corporation.

Idem

(2) The application shall state the purpose of the proposed borrowing, the nature and the estimated cost of the proposed work or project.

Disposition  
of applica-  
tion by  
School  
Board

(3) The School Board, at its first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and the secretary of the School Board shall forward a certified copy of its resolution in respect of the application to the secretary of the applicant board of education and to the clerk of the Metropolitan Corporation.

Renovation  
of school  
buildings

(4) A board of education in the Metropolitan Area may renovate any school buildings under its jurisdiction and the same shall be deemed permanent improvements for the purposes of this Act. R.S.O. 1970, c. 295, s. 137.

Disposition  
of applica-  
tion by  
Metro-  
politan  
Council

**140.**—(1) The Metropolitan Council, after the application referred to in section 139 has been dealt with by the School Board, shall consider and approve or disapprove the application, and the clerk of the Metropolitan Corporation shall thereupon give notice of the decision of the Metropolitan Council to the secretary of the applicant board of education and to the secretary of the School Board.

Application  
to Municipal  
Board

R.S.O. 1980,  
c. 347

(2) If the Metropolitan Council approves the application, it shall apply to the Municipal Board for its approval under section 64 of the *Ontario Municipal Board Act* and, if the Municipal Board approves, the Metropolitan Council shall pass a by-law authorizing the borrowing of money by the issue and sale of debentures of the Metropolitan Corporation for the purposes stated in the application.

Appeal

(3) Where the Metropolitan Council disapproves the application, the applicant board of education or the School Board may appeal to the Municipal Board for an order requiring the Metropolitan Council to pass a by-law for borrowing money by the issue and sale of debentures for the purpose or purposes stated in the application.



(4) The Municipal Board shall conduct a public hearing of every such appeal upon such notice as it considers proper, and may dismiss the appeal or may by order require the Metropolitan Council to pass the by-law mentioned in subsection (3), and the decision of the Municipal Board on such appeal is final. R.S.O. 1970, c. 295, s. 138.

**141.**—(1) At the request of the School Board, an application may be made by the Metropolitan Council to the Municipal Board for approval by the Municipal Board of expenditures and the borrowing of money and the issuing of debentures for the undertaking of any permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* or in subsection 139 (4) of this Act without specifying particular sites and projects, and the Municipal Board may dismiss the application or may approve part or all thereof, provided that no board of education in the Metropolitan Area shall make any commitment for the acquisition of a site or the undertaking of a project to be financed under an order of the Municipal Board made on such an application until the School Board has approved the cost of such acquisition or undertaking and the treasurer of the Metropolitan Corporation has certified that funds can be provided under such order in payment thereof.

(2) In any order made under this section, the Municipal Board may impose such terms and conditions as it may see fit and may permit preliminary expenditures by a board of education in the Metropolitan Area, including expenditures for the preparation of surveys, architects' plans, appraisals and other expenditures that may be necessary for the calling of tenders, prior to the approval of the School Board and the certificate of the treasurer referred to in subsection (1).

(3) The approval of the Municipal Board provided for in this section shall be deemed to be the approval of the Municipal Board required by section 64 of the *Ontario Municipal Board Act* and sections 139 and 140 of this Act for any site acquired or project carried out under and in accordance with such order. R.S.O. 1970, c. 295, s. 139.

**142.**—(1) If it appears to the School Board that the erection of a school for pupils from more than one school section or secondary school district in the Metropolitan Area is or will be desirable, the School Board may acquire land for the school site by purchase or otherwise or by expropriation.

## Borrowing

(2) The Metropolitan Council may borrow money at the request of the School Board for the purpose of acquiring land under subsection (1), and the School Board shall pay the interest charges on the amount borrowed as they fall due and shall repay the principal sum within five years from the date it was made available to it.

## Transfer to board of education

(3) Upon being reimbursed for all expenses, including interest charges on money borrowed under subsection (2), actually incurred in acquiring and holding the land less any revenue received therefrom, the School Board may convey the land to a board of education having jurisdiction in one of the school sections or secondary school districts from which pupils will attend the school when erected.

## Disposition

(4) The School Board may sell land acquired under subsection (1) if it appears to the School Board that such land will not be required for the erection of a school and may lease or rent such land at any time if it appears to the School Board that it is not immediately so required. R.S.O. 1970, c. 295, s. 140.

## Certain school boards and districts exempted

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c. 129

**143.**—(1) Nothing in this Act affects any public school board or public school section within the Metropolitan Area heretofore or hereafter established by the Minister under section 70 of the *Education Act* or any secondary school board or secondary school district within the Metropolitan Area hereafter established by the Minister under subsection 70 (2) of the *Education Act*.

Application of  
R.S.O. 1980,  
c. 494

(2) The School Board shall be deemed to be a board within the meaning of the *Teachers' Superannuation Act*. R.S.O. 1970, c. 295, s. 141.

## Admission of non-resident pupils

**144.**—(1) A board of education in the Metropolitan Area shall not admit to a secondary school operated by it any pupil who is not a resident pupil without prior approval of the School Board.

## Rights of wards of Children's Aid Society to attend school

(2) Where a child,

- (a) who is a ward in the care of The Metropolitan Toronto Children's Aid Society or whose mother is his sole support; and
- (b) who has the right to attend a public or secondary school in an area municipality without payment of a fee,

resides in the Metropolitan Area, he has the same right to attend a school without payment of a fee as he would have if his residence was that of his parents or guardians, and, if he does so attend, he shall be deemed for all purposes to be a resident pupil of the school section or secondary school district in which he resides.

(3) Where a child,

Rights of  
wards of  
Catholic  
Children's  
Aid Society

(a) who is a ward in the care of The Metropolitan Toronto Catholic Children's Aid Society or whose mother is his sole support; and

(b) who has the right to attend a secondary school in an area municipality without payment of a fee,

resides in the Metropolitan Area, he has the same right to attend a secondary school without payment of a fee as he would have if his residence was that of his parents or guardians, and, if he does so attend, he shall be deemed for all purposes to be a resident pupil of the secondary school district in which he resides. R.S.O. 1970, c. 295, s. 142.

**145.**—(1) The council of any area municipality may grant aid to the board of education for the area municipality to pay in whole or in part for the construction by the board of education of indoor or outdoor swimming pools on the property of the board of education.

Swimming  
pools on  
school  
property

(2) An area municipality and the board of education thereof may enter into agreements with respect to the construction, control, operation, maintenance and repair of such swimming pools and with respect to the operation and use of such swimming pools, except during school hours, by the area municipality.

Agreements

(3) The council of an area municipality may charge fees for the use of or admission to such swimming pools while the operation and use of the pools is under the control of the area municipality.

Fees

(4) The Metropolitan Corporation may issue debentures for the purposes of any undertaking under this section. R.S.O. 1970, c. 295, s. 143.

Debentures

Insurance  
on school  
property

**146.** Insurance placed by a board of education on its property shall be deemed to have been placed on its own behalf and on behalf of the School Board, and any proceeds of such insurance shall,

- (a) if requested by the School Board, be paid to the School Board; and
- (b) be used in the manner provided in subsection 137 (3). R.S.O. 1970, c. 295, s. 144.

## PART IX

### REGIONAL LIBRARY BOARD

Interpre-  
tation

**147.** In this Part,

- (a) "area board" means a public library board established for an area municipality;
- (b) "Library Board" means the Metropolitan Toronto Library Board. R.S.O. 1970, c. 295, s. 145.

Metropolitan  
Toronto  
Library  
Board

**148.**—(1) The regional library board, which is a corporation, under the name of "Metropolitan Toronto Library Board", is continued and shall be composed of,

- (a) one person appointed by the council of each area municipality who shall be a resident in the area municipality and who may be a member of a public library board;
- (b) the chairman of the Metropolitan Council;
- (c) one person appointed by The Metropolitan Toronto School Board who shall be a resident in the Metropolitan Area;
- (d) one person appointed by the Metropolitan Separate School Board who shall be a resident in the Metropolitan Area; and



- (e) two persons appointed by the Metropolitan Council who shall be residents in the Metropolitan Area. R.S.O. 1970, c. 295, s. 146 (1); 1972, c. 89, s. 4.

(2) Appointments of members of the Library Board shall be made in the month of January, 1967, and in the month of January in every third year thereafter. Time of appointment

(3) The appointed members of the Library Board shall hold office for a three-year term and until their successors are appointed. Term of office

(4) Vacancies arising from any cause shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the unexpired term of the person whose place has become vacant. Vacancies

(5) The chairman of the Metropolitan Council may designate any member of the Metropolitan Council to be his delegate at any or all of the meetings of the Library Board. Chairman may appoint delegate

(6) The Library Board, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of the members of the Library Board constitutes a quorum. Chairman and quorum

(7) Except as otherwise provided in this Act, the Library Board with respect to the Metropolitan Area shall be deemed to be a board of a regional library system under the *Public Libraries Act* and may make grants in aid of capital or current expenditures to any area board for the provision of central or regional reference library services. Powers of Library Board  
R.S.O. 1980, c. 414

(8) The Library Board shall submit annually to the Metropolitan Council an estimate of its financial requirements for the year, and the Metropolitan Council may amend such estimate and shall pay to the Library Board out of the moneys appropriated for the Library Board such amounts as may be requisitioned from time to time. R.S.O. 1970, c. 295, s. 146 (2-8). Finances

(9) The Library Board may,

Power to acquire land

- (a) with the approval of the Metropolitan Council, acquire by purchase, lease or otherwise any land required for its purposes and sell, lease or otherwise

dispose of any land or buildings when no longer required for its purposes; and

- (b) erect, maintain and repair buildings on its lands and make additions to or alterations of such buildings and may, with the approval of the Metropolitan Council, acquire or erect on its land, buildings larger than are required for library or branch library purposes, and may lease any parts of the buildings not so required, and shall be deemed to have always had such powers. R.S.O. 1970, c. 295, s. 146 (9); 1974, c. 114, s. 4.

Power  
of Metro-  
politan  
Corporation  
to acquire  
land

- (10) The power of the Metropolitan Corporation to acquire land for the purposes of the Metropolitan Corporation includes the power to acquire land for the purposes of the Library Board.

Actions,  
etc., against  
Library  
Board

- (11) All claims, actions and demands arising from or relating to the operations of the Library Board or the exercise of any of its powers shall be made upon and brought against the Library Board and not upon or against the Metropolitan Corporation.

Idem

- (12) The Library Board may sue and be sued in its own name. R.S.O. 1970, c. 295, s. 146 (10-12).

Assumption  
of lands and  
buildings

**149.**—(1) At the request of the Library Board, the Metropolitan Council may, after the 1st day of January, 1967, pass by-laws assuming on behalf of the Library Board any land or building that the Library Board requires for its purposes that is vested on the 31st day of March, 1966, in any area municipality or area board and that is used on such day for public library purposes, and on the day any such by-law becomes effective the property designated therein vests in the Library Board.

Sale by  
area muni-  
cipality or  
area board  
limited

- (2) No area municipality or area board, after the 31st day of March, 1966, shall, without the consent of the Metropolitan Council until the Library Board is organized and thereafter without the consent of the Library Board, sell, lease or otherwise dispose of or encumber any land or building that is used for public library purposes.

Buildings  
used for  
other  
purposes

- (3) Where any part of a building mentioned in subsection (1) is used by the area municipality or area board for pur-

poses other than those for which the Library Board was established, the Metropolitan Council may, at the request of the Library Board,

- (a) where practicable, assume on behalf of the Library Board only the part of the building and land appurtenant thereto used for purposes similar to those for which the Library Board was established; or
- (b) assume on behalf of the Library Board the whole building and land appurtenant thereto, and the Library Board may enter into an agreement with the area municipality or area board for the use of a part of the land or building by such area municipality or area board on such terms and conditions as may be agreed upon.

(4) Where the Metropolitan Corporation assumes any property under subsection (1) or (3),

Liability of  
Metro-  
politan  
Corporation

- (a) no compensation or damage shall be payable to the area municipality or area board except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due thereafter upon any outstanding debentures issued by the area municipality in respect of any property vested in the Library Board under subsection (1) or (3);
- (c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation on behalf of such area municipality in respect of any property vested in the Library Board under subsection (1) or (3) shall be repaid by levies against all the area municipalities;
- (d) the Metropolitan Corporation shall thereafter pay to the area municipality or area board, for the portion of any land or building vested in the Library Board under this section that is not used, on the 31st day

of March, 1966, for purposes similar to those for which the Library Board was established, such amount as may be agreed upon, and, failing agreement, the Municipal Board, upon application, may determine the amount, and its decision is final, provided that such amount shall not be greater than the capital expenditure for such portion of the land or building less the amount of any outstanding debentures in respect of such portion. R.S.O. 1970, c. 295, s. 147 (1-4).

Default

(5) If the Metropolitan Corporation fails to make any payments as required by clause (4) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 11.

Transfer of  
personal  
property

(6) At the request of the Library Board, each area municipality or area board shall transfer to the Library Board for its use without compensation all personal property, including books, periodicals, newspapers, manuscripts, pictures, films, recordings and catalogues in the possession of the area municipality or area board at any time during the period between the 31st day of March, 1966, and the 1st day of January, 1968, that was provided for purposes similar to those for which the Library Board was established.

Disposal of  
personal  
property  
limited

(7) No area municipality or area board during the period referred to in subsection (6) shall, without the consent of the Metropolitan Council until the Library Board is organized and thereafter without the consent of the Library Board, dispose of any personal property referred to in subsection (6).

Settling of  
doubts

(8) In the event of any doubt as to whether,

(a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or

(b) any personal property referred to in subsection (6) was used for purposes similar to those for which the Library Board was established,

the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 147 (6-8).



## PART X

## AREA MUNICIPALITIES

150.—(1) On the 1st day of January, 1967,

Area muni-  
cipalities,  
formed or  
continued

(a) the Township of East York and the Town of Leaside are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of East York;

(b) the Township of Etobicoke, the Village of Long Branch, the Town of Mimico and the Town of New Toronto are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of Etobicoke;

(c) the Township of North York is continued as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of North York;

NOTE—erection of North York into a city municipality, see s. 151 and O. Reg. 46/79.

(d) the Township of Scarborough is continued as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of Scarborough;

(e) the City of Toronto, the Village of Forest Hill and the Village of Swansea are amalgamated as a city municipality the inhabitants of which are a body corporate under the name of The Corporation of the City of Toronto;

(f) the Township of York and the Town of Weston are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of York. R.S.O. 1970, c. 295, s. 148 (1).

(2) On the 1st day of January, 1974, that portion of the Township of Pickering described as follows is annexed to The Corporation of the Borough of Scarborough:

Portion of  
Pickering  
annexed to  
Scarborough

COMMENCING at a point in the western boundary of the Township of Pickering, where it is intersected by the middle of the main channel of the Little Rouge Creek;

THENCE in a general southeasterly direction following the middle of the main channels of the Little Rouge Creek and the Rouge River to its mouth at Lake Ontario;

THENCE southerly on the same course as the western boundary of the Township of Pickering to the International Boundary between Canada and the United States of America;

THENCE westerly along the said International Boundary to the southwest angle of the Township of Pickering;

THENCE northerly along the west boundary of the Township of Pickering, being along the boundary between the Township of Pickering and the Borough of Scarborough to the point of commencement. 1973, c. 48, s. 5.

Transitional  
adjustments

(3) The Minister may provide from time to time by order that, in the year or years and in the manner specified in the order, the council of the Borough of Scarborough shall levy, on the whole of the assessment for real property and business assessment according to the last revised assessment roll in any specified area or areas, rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for the provisions of this subsection.

Surplus or  
deficit to  
be applied  
to supporting  
assessment

(4) The audited surplus or operating deficit of that portion of the Township of Pickering annexed to the Borough of Scarborough under subsection (2), shall accrue to the credit of or become a charge on the assessment supporting such surplus or operating deficit and shall be provided for by adjustment of the tax rate over a period not exceeding five years from the 1st day of January, 1974.

Ministry of  
Revenue to  
revise and  
adjust  
assessments

(5) In each year commencing in the year 1973, the Ministry of Revenue shall revise and adjust, by the 15th day of December, the assessments of the property in that portion of the Township of Pickering annexed to the Borough of Scarborough under subsection (2) by the use of adjustment factors which when applied to the local assessments of properties in that portion so annexed would increase or decrease the local assessments on such properties to a value on the same basis as the local assessments on similar properties in the Borough of Scarborough.

Deemed  
last revised  
assessment  
roll

(6) Notwithstanding the provisions of any general or special Act, the last revised assessment roll of the Borough of Scarborough as revised and adjusted under subsection (5) by the Ministry of Revenue shall be deemed to be the last revised assessment roll of the Borough of Scarborough for all purposes.

When  
provisions  
cease to  
apply

(7) Subsections (5) and (6) shall cease to apply on a date to be determined by order of the Minister. 1973, c. 171, s. 4.

Amalgama-  
tions deemed  
by orders  
of O.M.B.

(8) For the purposes of every Act, the municipalities amalgamated by this section shall be deemed to have been amalgamated by orders of the Municipal Board, not subject

to section 42 of the *Ontario Municipal Board Act*, or to petition or appeal under section 94 or 95 of such Act, made on the 18th day of May, 1966 pursuant to applications made under section 14 of *The Municipal Act*, and, subject to the provisions of this Act, the Municipal Board, upon the application of any area municipality or local board thereof or of its own motion, may exercise its powers consequent upon such amalgamations, and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

R.S.O. 1980,  
c. 347

R.S.O. 1970,  
c. 284

(9) The provisions of any special Act, in so far as they are not inconsistent with any of the provisions of this Act, relating to the City of Toronto, the Township of East York, the Township of Etobicoke or the Township of York shall apply to the whole of the new city or borough formed under subsection (1) of which it forms a part.

Application  
of special  
Acts

(10) The provisions of any special Act, in so far as they are not inconsistent with any of the provisions of this Act, relating to,

Idem

- (a) the Village of Forest Hill or the Village of Swansea, shall continue to apply to the part of the City of Toronto formerly in the Village of Forest Hill or the Village of Swansea except where they are in conflict with any special Act relating to the City of Toronto;
- (b) the Town of Leaside, shall continue to apply in the part of the Borough of East York formerly in the Town of Leaside except where they are in conflict with any special Act relating to the Township of East York;
- (c) the Town of Mimico, the Town of New Toronto or the Village of Long Branch, shall continue to apply in the part of the Borough of Etobicoke formerly in the Town of Mimico, the Town of New Toronto or the Village of Long Branch except where they are in conflict with any special Act relating to the Township of Etobicoke;
- (d) the Town of Weston, shall continue to apply in the part of the Borough of York formerly in the Town of Weston except where they are in conflict with any special Act relating to the Township of York.

(11) Notwithstanding subsections (1) and (8), on the 1st day of January, 1967, the provisions of any special Act respecting the composition of council relating to any area municipality are repealed. R.S.O. 1970, s. 148 (2-5).

Provisions  
respecting  
council  
repealed

Minister  
may erect  
township  
area  
municipality  
into city  
municipality

**151.**—(1) Notwithstanding section 150, upon the application of the council of an area municipality that has the status of a township municipality, the Minister may, by order, erect the area municipality into a city municipality and may direct the name the newly erected municipality shall bear and the date when the erection shall take effect and may provide for any matters that he considers necessary for the establishment and carrying on of the newly erected municipality, including the composition of its council.

Application of  
R.S.O. 1980,  
c. 302, ss. 17,  
19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act relating to the former township municipality apply to the newly erected municipality. 1974, c. 42, s. 7.

Council,  
composition

**152.**—(1) The council of each area municipality shall be composed of,

- (a) a mayor elected by general vote who shall be the head of council; and
- (b) a board of control, if at any time the area municipality has such a board; and
- (c) aldermen as follows:
  - (i) if elected by general vote, not fewer than four aldermen, or
  - (ii) if elected by wards and the area municipality has four or more wards, one, two or three aldermen for each ward, or, if the area municipality has fewer than four wards, two or three aldermen for each ward.

East York  
board of  
control  
R.S.O. 1980,  
c. 302

(2) The Borough of East York shall be deemed to have a population of not less than 100,000 for the purposes of section 68 of the *Municipal Act*.

Power to  
pass by-laws

(3) The council of any area municipality may pass by-laws providing for the composition of its council in accordance with subsection (1). R.S.O. 1970, c. 295, s. 149 (1-3).

Time for  
passing,  
approval  
of O.M.B.

(4) A by-law under this section, and a by-law amending or repealing any such by-law, shall be passed not later than thirty days prior to the last day for posting notice of the offices for which persons may be nominated in accordance with the *Municipal Elections Act* and shall not be passed unless it has received the approval of the Municipal Board. 1978, c. 35, s. 8.

R.S.O. 1980,  
c. 308

Effective  
date

(5) Every such by-law, including an amending or repealing by-law, shall take effect at and for the purposes of the biennial election next after its passing. 1972, c. 168, s. 4.



## PART XI

## HEALTH AND WELFARE SERVICES

**153.**—(1) In this section, “public welfare purposes” includes any purpose in respect of which any obligation is imposed or power is conferred on the Metropolitan Corporation in relation to matters referred to in this Part. Interpretation

(2) The Metropolitan Council may pass by-laws, which shall not become effective before the 1st day of January, 1967, assuming any land or building that it requires for public welfare purposes that is vested on the 31st day of March, 1966, in any area municipality and that is used on such day primarily for public welfare purposes, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 150 (1, 2). Assumption of lands and buildings for public welfare purposes

(3) Where any part of a building mentioned in subsection (2) is used by the area municipality or a local board thereof for purposes other than public welfare purposes, the Metropolitan Council may, Buildings used for other purposes

(a) where practicable, assume only the part of the building and land appurtenant thereto used for public welfare purposes; or

(b) assume the whole building and land appurtenant thereto, and enter into an agreement with the area municipality or a local board thereof for the use of a part of the land or building by such area municipality or local board on such terms and conditions as may be agreed upon.

(4) Where the Metropolitan Corporation assumes any property under subsection (2) or (3), Liability of Metropolitan Corporation

(a) no compensation or damage shall be payable to the area municipality except as provided in this subsection;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due thereafter upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation under subsection (2) or (3);

(c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation on behalf of such area municipality in respect of any property

vested in the Metropolitan Corporation under subsection (2) or (3) shall be repaid by levies against all the area municipalities;

- (d) the Metropolitan Corporation shall thereafter pay to the area municipality for the portion of any land or building vested in the Metropolitan Corporation under this section that is not used, on the 31st day of March, 1966, for public welfare purposes such amount as may be agreed upon, and, failing agreement, the Municipal Board, upon application, may determine the amount, and its decision is final, provided that such amount shall not be greater than the capital expenditure for such portion of the land or building less the amount of any outstanding debentures in respect of such portion. R.S.O. 1970, c. 295, s. 150 (4, 5).

Default

(5) If the Metropolitan Corporation fails to make any payments as required by clause (4) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 12.

Accommodation

(6) Where a building vested in an area municipality or local board is used partly for public welfare purposes and is not vested in the Metropolitan Corporation under this section, the area municipality or local board at the request of the Metropolitan Council shall provide, at such rental as may be agreed upon, at least as much accommodation in such building for the use of the Metropolitan Corporation as was being provided by the area municipality for public welfare purposes on the 31st day of March, 1966.

Transfer of personal property

(7) At the request of the Metropolitan Council, each area municipality, for the use of the Metropolitan Corporation,

- (a) shall transfer to the Metropolitan Corporation without compensation all office supplies and stationery in the possession of the area municipality on the 31st day of December, 1966, that was provided exclusively for public welfare purposes; and
- (b) shall transfer to the Metropolitan Corporation without compensation all personal property with the exception of office supplies and stationery in the possession of the area municipality on the 31st day of March, 1966, or thereafter that was provided exclusively for public welfare purposes.

Disposal of personal property

(8) No area municipality, without the consent of the Metropolitan Council, shall dispose of any personal property referred to in clause (7) (b).

(9) In the event of any doubt as to whether,

Settling of  
doubts

(a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or

(b) any land or building referred to in subsection (2) was used primarily for public welfare purposes,

the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 150 (7-10).

**154.** For the purposes of the following Acts, the Metropolitan Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

Liability of  
Metro-  
politan  
Corporation  
under  
R.S.O. 1980,  
cc. 21, 111,  
200,  
263, 527

*Anatomy Act,*

*Day Nurseries Act,*

*Homemakers and Nurses Services Act,*

*Mental Hospitals Act,*

*War Veterans Burial Act.* R.S.O. 1970, c. 295, s. 151.

**155.** The Metropolitan Corporation shall be deemed to be a city for all the purposes of the provisions of the *Public Hospitals Act* respecting the hospitalization and burial of indigent persons and their dependants, and no area municipality has any liability under such provisions. R.S.O. 1970, c. 295, s. 152.

Liability  
for hospital-  
ization of  
indigents  
R.S.O. 1980,  
c. 410

**156.**—(1) The Regional Municipality of York is not liable and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the County of York was liable because the indigent person was a resident of an area municipality.

Existing  
liabilities  
transferred

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the City was liable because the indigent person was a resident of the City.

Idem

(3) Nothing in subsection (1) or (2) relieves The Regional Municipality of York or the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954.

Proviso

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day

Special  
provisions

of December, 1953, for the hospitalization and burial of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, or who is admitted to hospital after such date and in respect of whom the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel, which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954. R.S.O. 1970, c. 295, s. 153.

1947, c. 142

Aid to  
hospitals

**157.** The Metropolitan Council may pass by-laws for granting aid for the erection, establishment, maintenance or equipment of public hospitals, including municipal hospitals or municipal isolation hospitals in the Metropolitan Area and may issue debentures therefor. R.S.O. 1970, c. 295, s. 154.

Dairy farm  
inspections

**158.** The Metropolitan Corporation may pay to the local board of health of any area municipality the whole or any part of the cost incurred by such local board for dairy farm inspections made after the 31st day of December, 1960. R.S.O. 1970, c. 295, s. 155 (4).

Public and  
isolation  
hospitals  
R.S.O. 1980,  
cc. 410, 409

**159.**—(1) Subject to the *Public Hospitals Act*, the Metropolitan Corporation may establish, erect, equip, maintain and operate a public hospital and shall be deemed to be a city for the purposes of establishing, erecting and maintaining an isolation hospital under the *Public Health Act*.

Riverdale  
Isolation  
Hospital  
R.S.O. 1980,  
c. 409

(2) For such purposes, the Riverdale Isolation Hospital established, erected and maintained by The Corporation of the City of Toronto under the *Public Health Act* and the nurses' residence used in connection therewith and all real and personal property used for the purposes of such hospital and nurses' residence are vested in the Metropolitan Corporation and no compensation shall be paid to the City in respect thereof. R.S.O. 1970, c. 295, s. 156.

Liability  
respecting  
home for  
aged and  
rest homes  
R.S.O. 1980,  
c. 203

**160.** The Metropolitan Corporation shall be deemed to be a city for the purposes of the *Homes for the Aged and Rest Homes Act*, and no area municipality has any liability as to the establishment, erection and maintenance of a home for the aged under that Act. R.S.O. 1970, c. 295, s. 157 (1).



**161.** The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized by the committee of management thereof. 1980, c. 39, s. 7.

Liability respecting indigent persons awaiting accommodation in home for the aged

**162.** A home for the aged of the Metropolitan Corporation may be established, erected and maintained either within or outside the Metropolitan Area. R.S.O. 1970, c. 295, s. 159.

Location of home for aged

**163.**—(1) The home for the aged established, erected or maintained under *The Homes for the Aged Act, 1955* by The Corporation of the City of Toronto, and all real and personal property used for the purposes of such home, is vested in the Metropolitan Corporation and, subject to subsection (2), no compensation or damages shall be payable to the City in respect thereof.

Toronto home for aged vested in Metropolitan Corporation 1955, c. 30

(2) The Metropolitan Corporation shall pay to The Corporation of the City of Toronto before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City for the purposes of such home for the aged. R.S.O. 1970, c. 295, s. 160 (1, 2).

Existing debenture liability

(3) If the Metropolitan Corporation fails to make any payments as required by subsection (2), the City may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the City determines, from the date payment is due until it is made. 1979, c. 64, s. 13.

Default

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of such home for the aged, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 160 (4).

Settling of doubts

**164.**—(1) The Metropolitan Corporation shall pay to The Regional Municipality of York the cost of maintenance in the County of York home for the aged, after the 31st day of December, 1953, of every resident of that home who was admitted thereto due to residence in an area municipality.

Residents of County home for aged

(2) The amount payable by the Metropolitan Corporation under subsection (1) shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. R.S.O. 1970, c. 295, s. 161.

Amount of maintenance payment

Metropolitan  
Corporation  
deemed  
municipality  
under  
R.S.O. 1980,  
c. 131

**165.** Notwithstanding clause 1 (g) of the *Elderly Persons Centres Act*, the Metropolitan Corporation shall be deemed to be a municipality for the purposes of such Act. 1973, c. 171, s. 5.

Liability of  
Metro-  
politan  
Corporation  
under  
R.S.C. 1970,  
c. J-3

**166.** For the purposes of subsection 20 (2) of the *Juvenile Delinquents Act* (Canada), the Metropolitan Corporation shall be deemed to be a municipality and no area municipality shall be deemed to be a municipality. R.S.O. 1970, c. 295, s. 163.

Existing  
liabilities  
transferred

**167.—**(1) The Regional Municipality of York is not liable, and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the County of York on the 31st day of December, 1953, where the order was made because the child belonged to the County of York due to residence in an area municipality.

Idem

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the City on the 31st day of December, 1953.

Proviso

(3) Nothing in subsections (1) and (2) relieves The Regional Municipality of York or the City from any liability in respect of maintenance provided before the 1st day of January, 1954.

Special  
provisions

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for the maintenance of children committed temporarily or permanently to the care and custody of a children's aid society in respect of which child an order for maintenance was in force on the 31st day of December, 1953, or is made after such date and in respect of which maintenance the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of maintenance provided before the 1st day of January, 1954. R.S.O. 1970, c. 295, s. 164.

1947, c. 142

Liability of  
Metropolitan  
Corporation  
under  
R.S.O. 1980,  
c. 188

**168.** For the purposes of the *General Welfare Assistance Act*, the Metropolitan Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality for the purposes of that Act, except section 5 thereof. R.S.O. 1970, c. 295, s. 165; 1975, c. 50, s. 1.

**169.** The Metropolitan Council may pass by-laws to provide money for the health and welfare of the resident poor not otherwise specifically provided for in this Act. R.S.O. 1970, c. 295, s. 166. Special  
welfare  
assistance

**170.** Every area municipality and every officer or employee thereof shall, at the request of the welfare officer of the Metropolitan Corporation, furnish forthwith to such officer any information he may require for public welfare purposes as defined in subsection 153 (1). R.S.O. 1970, c. 295, s. 169. Information

**171.** The Metropolitan Council may acquire the lands and premises known as 186-194 Beverley Street in the City of Toronto for the use of the Metropolitan Toronto Association for Retarded Children and may lease such lands and premises to the Association for a nominal amount for such term and under such conditions as the Metropolitan Council may determine. R.S.O. 1970, c. 295, s. 171. Acquisition  
of land for  
Association  
for Retarded  
Children

**172.** The Metropolitan Corporation may assume and pay 50 per cent of the annual operating deficit of Regent Park South Nursery School for the year 1963 and subsequent years. R.S.O. 1970, c. 295, s. 172. Regent Park  
South  
Nursery  
School  
operating  
deficits

**173.—(1)** The Metropolitan Council may,

Ambulance  
services

- (a) acquire, maintain and operate ambulances for the conveyance of persons requiring medical attention to a hospital or other place, and fix and charge fees therefor;
- (b) enter into an agreement with any person for a period not exceeding five years to maintain and operate ambulances for the purpose of conveying persons requiring medical attention to a hospital or other place at such rates or charges and on such other terms and conditions, including the payment of an annual subsidy to such person, as may be agreed upon;
- (c) establish, maintain and operate a central ambulance dispatching system for the Metropolitan Area, and enter into an agreement with any person for a period not exceeding five years for such purposes on such terms and conditions as may be agreed upon;

- (d) provide for payment by the Metropolitan Corporation to owners of ambulances of charges for making calls as directed through such central ambulance dispatching system and provide for the recovery of such charges by the Metropolitan Corporation;
- (e) provide a public education program to give instruction in and disseminate information in respect of emergency first aid and basic life support techniques and charge a fee for the program provided. R.S.O. 1970, c. 295, s. 173 (1); 1980, c. 39, s. 8.

Powers of  
area municipalities

R.S.O. 1980,  
c. 409

(2) On and after the 1st day of January, 1967, no area municipality or local board of health thereof shall exercise any of its powers under section 34 of the *Public Health Act* without the consent of the Metropolitan Council.

Assumption  
of  
ambulances

(3) The Metropolitan Council shall, before the 1st day of January, 1967, pass by-laws, which shall be effective on the 1st day of January, 1967, assuming for the use of the Metropolitan Corporation any ambulance and any personal property used in connection therewith that the Metropolitan Corporation may require for the purposes of subsection (1) that is vested on the 31st day of March, 1966, in any area municipality or local board of health thereof, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation and no compensation or damage shall be payable in respect of such property.

Extension  
of time

(4) Notwithstanding subsection (3), a by-law for assuming any property under subsection (3), with the approval of the Municipal Board, may be passed after the 1st day of January, 1967, and in that case the by-law shall become effective on the date provided therein.

Assumption  
of  
agreements

(5) On the 1st day of January, 1967, the Metropolitan Corporation shall assume and become liable for the obligations and entitled to the benefits,

R.S.O. 1980,  
c. 302

(a) of any area municipality under any agreement entered into under paragraph 379 (1) (88c) of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960; and

R.S.O. 1980,  
c. 409

(b) of any local board of health of an area municipality under any agreement entered into under section 34 of the *Public Health Act*,



and no area municipality or local board of health thereof, after the 31st day of March, 1966, shall without the consent of the Metropolitan Council enter into any such agreement. R.S.O. 1970, c. 295, s. 173 (2-6).

## PART XII

### METROPOLITAN POLICE

**174.** In this Part, "Metropolitan Board" means Metropolitan Board of Commissioners of Police for the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 174. Interpretation

**175.**—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of the *Police Act*. R.S.O. 1970, c. 295, s. 175 (1). Metropolitan Toronto deemed city for R.S.O. 1980, c. 381

(2) The *Police Act*, except section 70, does not apply to any area municipality. 1978, c. 35, s. 9. Application of R.S.O. 1980, c. 381, to area municipalities

**176.** All boards of commissioners of police of area municipalities are dissolved. R.S.O. 1970, c. 295, s. 176. Boards of area municipalities dissolved

**177.**—(1) The Board of Commissioners of Police for the Metropolitan Corporation shall be known as Metropolitan Board of Commissioners of Police and shall be composed of, Composition of Metropolitan Board

- (a) the chairman of the Metropolitan Council;
- (b) one member of the Metropolitan Council appointed by the Metropolitan Council;
- (c) a judge of the county court of the Judicial District of York designated by the Lieutenant Governor in Council;
- (d) one provincial judge under the *Provincial Courts Act* designated by the Lieutenant Governor in Council; and R.S.O. 1980, c. 398
- (e) one person, who is not qualified to be appointed or designated under clause (b), (c) or (d), appointed by the Lieutenant Governor in Council.

(2) The Metropolitan Board may pass by-laws under paragraph 1 of section 235 of the *Municipal Act*. R.S.O. 1970, c. 295, s. 177. Specific powers R.S.O. 1980, c. 302

Remunera-  
tion

R.S.O. 1980,  
c. 381

**178.** The Metropolitan Corporation shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations under the *Police Act*, to the members of the Metropolitan Board appointed or designated by the Lieutenant Governor in Council, except the member designated by the Lieutenant Governor in Council under clause 177 (1) (c). 1978, c. 35, s. 10.

Accommo-  
dation and  
equipment

**179.** The Metropolitan Corporation shall provide all real and personal property necessary for the purposes of the Metropolitan Board. R.S.O. 1970, c. 295, s. 179.

Regulations  
of dissolved  
boards  
continue  
in force

**180.** All regulations under the *Police Act* made by the boards of commissioners of police dissolved under section 176 that are in force immediately before the 1st day of January, 1957, shall continue in force and effect and apply to the members of the Metropolitan Police Force until repealed by the Metropolitan Board. R.S.O. 1970, c. 295, s. 180.

Members  
of area  
municipality  
police force  
transferred  
to Metro-  
politan  
Board

**181.**—(1) Every person who is a member of a police force in an area municipality, including any chief constable, constable, police officer and assistant, on the 15th day of March, 1956, and is continuously so employed until immediately before the 1st day of January, 1957, becomes a member of the Metropolitan Police Force on the 1st day of January, 1957, and is subject to the government of the Metropolitan Board to the same extent as if appointed by the Metropolitan Board.

Application  
of pension  
provisions  
to civilian  
employees

(2) Subsections 24 (3) to (7) apply to every person who becomes a member of the Metropolitan Police Force, except a chief constable, constable or other police officer, to the same extent as if such person had been an employee of an area municipality or the board of commissioners of police thereof and thereafter became employed by the Metropolitan Corporation.

Enforcement  
of by-laws

(3) The Metropolitan Board and the members of the Metropolitan Police Force shall be charged with the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 181.

Assumption  
of  
buildings

**182.**—(1) The Metropolitan Council shall, before the 1st day of January, 1957, pass by-laws which shall be effective on the 1st day of January, 1957, assuming for the use of the Metropolitan Board any such land or building that the Metropolitan Board may require that is vested on the 15th day of February, 1956, in any area municipality or local board

thereof, and at least 40 per cent of which is used on such date for the purposes of the police force of that area municipality, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation.

(2) Notwithstanding subsection (1), a by-law for assuming any land or building mentioned in subsection (1), with the approval of the Municipal Board, may be passed after the 1st day of January, 1957, and in that case the by-law shall become effective on the date provided therein.

Extension  
of time

(3) Where any part of a building mentioned in subsection (1) is used by the area municipality or a local board thereof for other than police purposes, the Metropolitan Council may,

Building  
not used  
exclusively  
for police  
force

(a) where practicable assume only the part of the building and land appurtenant thereto used for the purposes of the police force of the area municipality; or

(b) vest the building and land appurtenant thereto in the Metropolitan Corporation and enter into an agreement with the area municipality or local board thereof for the use of a part of the building by the area municipality or local board on such terms and conditions as may be agreed upon.

(4) Where the Metropolitan Corporation assumes any property under subsection (1) or (2),

Metropolitan  
Corporation  
liability

(a) no compensation or damage shall be payable to the area municipality or local board except as provided in this subsection;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation;

(c) the Metropolitan Corporation shall thereafter pay to the area municipality for the portion of any land or building vested in the Metropolitan Corporation under this section that is not used for police purposes on the 15th day of February, 1956, such amount as may be agreed upon and failing agreement the Muni-

cipal Board, upon application, may determine the amount, and its decision is final, provided such amount shall not be greater than the capital expenditure for such portion of such land or building less the amount of any outstanding debentures in respect of such portion. R.S.O. 1970, c. 295, s. 182 (1-5).

Default

(5) If the Metropolitan Corporation fails to make any payments as required by clause (4) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 14.

Accommodation

(6) Where a building vested in an area municipality or local board is used partly by the police force of the area municipality and is not vested in the Metropolitan Corporation under this section, the area municipality at the request of the Metropolitan Board shall provide, at such rental as may be agreed upon, at least as much accommodation in such building for the use of the Metropolitan Board as was being provided by the area municipality for its police force on the 15th day of February, 1956.

Office supplies, etc.

(7) At the request of the Metropolitan Board, each area municipality, for the use of the Metropolitan Board,

- (a) shall transfer to the Metropolitan Corporation without compensation all office supplies and stationery in the possession of the area municipality on the 31st day of December, 1956, that was provided for the exclusive use of the police force of the area municipality;
- (b) shall transfer to the Metropolitan Corporation without compensation all personal property with the exception of office supplies and stationery in the possession of the area municipality on the 15th day of February, 1956, or thereafter that was provided for the exclusive use of the police force of the area municipality;
- (c) shall make available to the Metropolitan Corporation all personal property the use of which was shared by the police and any department or departments of the area municipality on the 15th day of February, 1956,



on the same terms and to the same extent as the police department used the property before the 15th day of February, 1956.

(8) No area municipality or board of commissioners of police, without the consent of the Metropolitan Board, shall dispose of any personal property referred to in subsection (7) owned by the area municipality on the 15th day of February, 1956, or thereafter.

Disposal  
of personal  
property

(9) All signal and communication systems owned by any area municipality and used for the purposes of the police force of the area municipality on the 15th day of February, 1956, or thereafter are vested in the Metropolitan Corporation for the use of the Metropolitan Board on the 1st day of January, 1957, and no compensation shall be payable to the area municipality therefor and the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any such signal or communication system.

Signal  
system  
transferred

(10) In the event of any doubt as to whether,

Settling  
of doubts

(a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or

(b) any land or building is used at least 40 per cent for the purposes of a police force,

the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 182 (7-11).

**183.**—(1) The Metropolitan Council, on the recommendation of the Metropolitan Board, shall provide a pension plan for the chief of police, constables and other police officers who are members of the Metropolitan Police Force and may provide for the incorporation of the plan of any area municipality and the Toronto Police Benefit Fund with the plan established under this section, and may provide for the transfer of the interests of such members who were in the service of the police force of an area municipality from the Toronto Police Benefit Fund and from the pension plan of any area municipality to the pension plan established under this section. R.S.O. 1970, c. 295, s. 183 (1); 1974, c. 42, s. 8 (1).

Pensions

Provisions  
not less  
favourable  
than Toronto  
Police  
Benefit  
Fund

(2) The benefits provided in the pension plan established under this section for the services of any member of the Metropolitan Police Force performed on and after the 1st day of January, 1957, shall be on a basis not less favourable with respect to such services than the benefits provided in By-law No. 13273 of The Corporation of the City of Toronto, as amended, respecting the Toronto Police Benefit Fund.

Provisions  
for services  
with police  
force of area  
municipality

(3) The benefits provided in the pension plan established under this section,

(a) with respect to the services performed before the 1st day of January, 1957, of members of the Toronto Police Benefit Fund shall be not less favourable than the benefits provided in the said By-law No. 13273, provided such benefits shall be limited to those purchasable with the assets transferred from the Toronto Police Benefit Fund and the payments to be made by the City of Toronto as provided in subsection (14) and any additional payments agreed to be made by the City of Toronto to the pension plan established under this section; and

(b) with respect to the services performed before the 1st day of January, 1957, by the chief constable, constables and other police officers of any other area municipality shall be not less favourable than the benefits provided for the chief constable, constables and other police officers under the pension plan of such other area municipality, provided such benefits shall be limited to those purchasable with the assets transferred from the pension plan of the area municipality, the payments to be made by the area municipality as provided in subsection (14) and any additional payments agreed to be made by the area municipality to the pension plan established under this section.

Accrued  
benefits  
under area  
municipality  
pension plan

(4) Every chief constable, constable and other police officer of the police force of an area municipality who has become a member of the Metropolitan Police Force pursuant to subsection 181 (1), or his beneficiaries, is entitled on termination of his services with the Metropolitan Police Force to all benefits accrued up to the 31st day of December, 1956, under the pension plan of the area municipality, and his employment by and service with the Metropolitan Police Force shall be deemed to be employment by and service with the police force of the area municipality for the purpose of determining eligibility for any such accrued benefits.

(5) An area municipality is liable to pay benefits accrued up to the 31st day of December, 1956, under subsection (4) only to the extent that such benefits exceed the benefits provided for services before the 1st day of January, 1957, in the pension plan established under this section. R.S.O. 1970, c. 295, s. 183 (2-5). Area municipality liability

(6) The Metropolitan Council, on the recommendation of the Metropolitan Board, may by by-law provide benefits under the pension plan established under this section with respect to services performed prior to the 1st day of January, 1957, by the chief constables, constables and other police officers of the police forces of the area municipalities who have become members of the Metropolitan Police Force under subsection 181 (1) on a basis not less favourable than the basis required by subsection (2) for services after that date, and in such event the Metropolitan Council, with the like approval, may, for such purpose, determine, Provision of benefits for past services

(a) the extent to which the provisions of subsections (3) and (14) shall continue to apply;

(b) the payments to be made to such pension plan by each area municipality; and

(c) the assets to be assigned or transferred under subsection (12). R.S.O. 1970, c. 295, s. 183 (6); 1974, c. 42, s. 8 (2).

(7) The benefits authorized by subsection (6) may be provided for such chief constables, constables and other police officers whose services with the Metropolitan Police Force were terminated by retirement with immediate pension benefits or by death after the 1st day of January, 1957, and before the date a by-law passed under subsection (6) becomes effective. Idem

(8) Any payments required to be made by an area municipality under subsection (6) other than assets transferred or assigned may, with the consent of the Metropolitan Council, be on a deferred basis and raised in a subsequent year or years and any such payments shall be deemed to be current expenditures. Payments of area municipalities on deferred basis

(9) Any additional payments required to be made by the Metropolitan Corporation to provide the benefits authorized by subsection (6) may be on a deferred basis and raised in a subsequent year or years and shall be deemed to be current expenditures. Additional payments by Metropolitan Corporation

Police  
officers to  
participate

(10) Every chief constable, constable and other police officer of an area municipality who becomes a member of the Metropolitan Police Force under section 181 thereupon becomes a member of the pension plan established or to be established under this section.

Contribu-  
tions in  
provisional  
fund

(11) Until a pension plan is established under this section, the Metropolitan Board shall deduct by instalments 7 per cent of the gross salary of each member of the Metropolitan Police Force referred to in subsection (10), and the Metropolitan Corporation shall contribute an equivalent amount and shall pay over to the treasurer of the Metropolitan Corporation all deductions and contributions which shall be held by him in trust in a provisional fund.

Transfer  
of assets

(12) At the request of the Metropolitan Board,

- (a) the ownership of the assets of the Toronto Police Benefit Fund;
- (b) a sum equal to the amount standing to the credit of the chief constable, constables and other police officers of each area municipality, except the City of Toronto, in the pension plan of the area municipality; and
- (c) the interest of every such police officer in the pension plan of an area municipality provided by contract with Her Majesty in accordance with the *Government Annuities Act* (Canada) or with an insurer,

R.S.C. 1952,  
c. 132

shall be transferred to the provisional fund under subsection (11) until the pension plan is established under this section and thereafter to such pension plan.

Securities  
deemed  
transferred  
on registry  
books

(13) The ownership of all securities registered in the name of the Toronto Police Benefit Fund shall be deemed to be transferred upon the various registry books of the issuers of such securities to the name of the Metropolitan Toronto Police Benefit Fund.

Payments  
for which  
area  
municipality  
committed

(14) Where any area municipality is committed to make payments in any year into the pension plan of any area municipality or the Toronto Police Benefit Fund with respect to past services of any chief constable, constable or other police officer, the area municipality shall pay over in such year the amounts for which it is so committed to the provisional fund



under subsection (11) until the pension plan is established under this section and thereafter to such pension plan.

(15) When a pension plan is established under this section, the assets of the provisional fund shall be transferred thereto. Assets of provisional fund transferred  
R.S.O. 1970, c. 295, s. 183 (7-15).

(16) Notwithstanding this or any other Act, the Metropolitan Council may by by-law provide pension benefits for widows of members of the Metropolitan Police Force whose services were terminated by death or retirement prior to the 1st day of January, 1963. Pension benefits for widows 1974, c. 114, s. 5.

(17) The Metropolitan Board shall establish, effective on and after the 1st day of January, 1957, a sick leave credit plan for the chief constable, constables and other police officers who are members of the Metropolitan Police Force, and shall provide therein for sick leave credits at least equivalent to those to which each such person would have been entitled if he had remained a member of a police force in an area municipality and shall place to the credit of each such person the sick leave credits standing to his credit in the plan of the area municipality. Sick leave credits

(18) Where a chief constable, constable or other police officer of an area municipality becomes a member of the Metropolitan Police Force under section 181, the Metropolitan Board shall provide, during the first year he is such a member, for holidays with pay at least equivalent to those to which such police officer would have been entitled if he had remained a member of the police force of the area municipality. Holidays R.S.O. 1970, c. 295, s. 183 (16, 17).

**184.**—(1) The Metropolitan Council may, to such extent as it thinks fit, pay the legal costs incurred by a member of the Metropolitan Police Force in respect of an inquiry held by a commission under the *Public Inquiries Act* or held by a commissioner under *The Public Inquiries Act*, being chapter 379 of the Revised Statutes of Ontario, 1970, where the subject-matter of the inquiry includes in whole or in part the conduct of the member in the performance or purported performance of his duties. Indemnifying members of Metropolitan Police Force  
R.S.O. 1980, c. 411

(2) This section does not apply in respect of inquiries held into matters occurring before the 25th day of October, 1971. Application of section  
1972, c. 168, s. 5.

**185.** The Metropolitan Corporation shall be deemed to be a municipality for the purpose of the *Administration of Justice Act*, Metropolitan Corporation deemed municipality under  
R.S.O. 1980, cc. 6, 302

and section 205 of the *Municipal Act*. R.S.O. 1970, c. 295, s. 184.

**Penalties**

**186.** The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 186.

## PART XIII

### LICENSING COMMISSION

**Interpre-  
tation**

**187.** In this Part, "Licensing Commission" means the licensing commission established for The Municipality of Metropolitan Toronto under this Part. R.S.O. 1970, c. 295, s. 187.

**Licensing  
Commission**

**188.**—(1) There shall be a licensing commission for The Municipality of Metropolitan Toronto to be known as Metropolitan Licensing Commission composed of,

- (a) the chairman of the Metropolitan Council or his delegate; and
- (b) two persons appointed by the Metropolitan Council who are not members of the council of an area municipality.

**Chairman  
may appoint  
delegate**

(2) The chairman of the Metropolitan Council may designate any member of the Metropolitan Council to be his delegate at any or all of the meetings of the Licensing Commission.

**Chairman  
and quorum**

(3) The Licensing Commission shall elect a chairman and may elect a vice-chairman, and a majority of the members of the Licensing Commission constitutes a quorum. R.S.O. 1970, c. 295, s. 188.

**Powers**

**189.**—(1) The Licensing Commission has all the powers that may be exercised by boards of commissioners of police under,

R.S.O. 1980,  
c. 302

- (a) paragraphs 1, 4 and 6 of section 227 of the *Municipal Act*;
- (b) paragraphs 7 and 8 of subsection 230(1) of the *Municipal Act*;

- (c) paragraphs 4, 5, 12 and 14 of section 232 of the *Municipal Act*. R.S.O. 1980, c. 302

(2) A by-law passed by the Licensing Commission under clause (1) (a) of this section and paragraph 1 of section 227 of the *Municipal Act* with respect to licensing, regulating and governing owners and drivers of ambulances may include provisions, Ambulance service

- (a) for licensing, regulating and governing ambulance attendants and providing for examinations to be passed by ambulance drivers and attendants;
- (b) for requiring owners of ambulances to install and maintain such means of communication with any central ambulance dispatching system maintained by or for the Metropolitan Corporation as the by-law may prescribe;
- (c) for requiring owners and drivers of ambulances to accept and make calls as directed through such central ambulance dispatching system.

(3) The Metropolitan Council, by reference to the provisions of any Act, may by by-law authorize the Licensing Commission to exercise the powers of any area municipality or board of commissioners of police with respect to the licensing, revoking of a licence, regulating, governing, prohibiting or limiting of any trade, calling, business or occupation or the person carrying on or engaged in it and upon being so authorized the Licensing Commission may exercise such powers. Further powers R.S.O. 1970, c. 295, s. 189.

**190.** The Licensing Commission has the same power to summon and examine witnesses on oath as to any matter connected with the execution of its powers and duties or as to any matter respecting any licence issued before the 1st day of January, 1957, by any body that formerly exercised the powers now vested in the Licensing Commission, to enforce their attendance and to compel them to give evidence and produce documents and things, as is vested in any court of law in civil cases. Licensing Commission may summon witnesses R.S.O. 1970, c. 295, s. 190.

**191.** Where a by-law of the Licensing Commission passed under a provision of the *Municipal Act* or any other Act is applicable to an area municipality, any by-law of the area municipality passed under the same provision of the *Municipal Act* or any other Act has no effect and the area municipality does not have power to pass such a by-law while the by-law passed by the Licensing Commission is in effect in such area municipality. By-laws R.S.O. 1970, c. 295, s. 191.

Powers of boards of commissioners of police to be exercised by City of Toronto

**192.** All the powers and duties of a board of commissioners of police under the *Municipal Act* or any other Act and all the powers and duties of the Board of Commissioners of Police for the City of Toronto under any special Act, except those which by this Act are exercised by the Licensing Commission or the Metropolitan Board of Commissioners of Police, shall after the 1st day of January, 1957, be exercised by the council of the City of Toronto. R.S.O. 1970, c. 295, s. 192.

Application of R.S.O. 1980, c. 302

**193.** Sections 110 and 111 and Part XIX of the *Municipal Act* apply with necessary modifications to the Licensing Commission and to the by-laws passed by the Licensing Commission, and the Licensing Commission shall fix the fees to be paid for any licence. R.S.O. 1970, c. 295, s. 193.

Licensing by-laws may be passed by Council

**194.**—(1) Notwithstanding sections 189 and 190, the Metropolitan Council may pass any by-law that the Licensing Commission may pass, including any by-law that the Metropolitan Council may authorize the Licensing Commission to pass under subsection 189 (3), and may repeal in whole or in part any existing by-law of the Licensing Commission. R.S.O. 1970, c. 295, s. 194 (1); 1974, c. 42, s. 9.

Effect on power of Commission to pass by-laws

(2) Where the Metropolitan Council has passed a by-law under a provision in any Act, the Licensing Commission shall not have the power to pass a by-law under such provision.

Application of s. 191

(3) Section 191 applies to by-laws passed by the Metropolitan Council under this section.

Exercise of power by Council

(4) For the purposes of section 192, a power exercised by the Metropolitan Council under this section shall be deemed to be a power exercised by the Licensing Commission.

Application of s. 193 to Council

(5) Where the Metropolitan Council passes a by-law under subsection (1), the provisions of section 193 in so far as they apply to the passing and enforcement of by-laws and the fixing of fees shall apply to the Metropolitan Council and to such by-law.

Effect on Licensing Commission

(6) Except with respect to its power to pass by-laws and fix fees, nothing in this section affects the powers of the Licensing Commission. R.S.O. 1970, c. 295, s. 194 (2-6).

Remuneration of members

**195.** The Metropolitan Corporation shall pay to the members of the Licensing Commission, except the chairman of the Metropolitan Council or his delegate, such remuneration for their services as may be determined by the Metropolitan Council. R.S.O. 1970, c. 295, s. 195.



## PART XIV

### HOUSING AND REDEVELOPMENT

**196.**—(1) The Metropolitan Corporation and the Metropolitan Council have all the powers conferred on the corporation or council of a municipality under the *Housing Development Act* or any other Act with respect to housing or building development, housing projects, temporary housing accommodation and redevelopment areas and with respect to any other matter concerned with the provision or improvement of housing accommodation. Housing and redevelopment R.S.O. 1980, c. 209

(2) Nothing in subsection (1) shall be deemed to limit or interfere with the powers of the area municipalities with respect to the matters mentioned in subsection (1). Powers of area municipalities R.S.O. 1970, c. 295, s. 196.

**197.** Without limiting its powers under subsection 196 (1), the Metropolitan Corporation, Agreements with municipalities

(a) shall be deemed to be a governmental authority within the meaning of section 18 of the *Housing Development Act*; and

(b) may enter into agreements with any area municipality for sharing or contributing to the costs incurred by the area municipality in exercising any of its powers with respect to the matters mentioned in subsection 196 (1). R.S.O. 1970, c. 295, s. 197.

**198.** The Metropolitan Council may make grants in aid of the establishment, construction, extension or equipment of homes for the care of elderly persons. Grants for homes for elderly persons R.S.O. 1970, c. 295, s. 198.

**199.**—(1) The Metropolitan Council and the council of any area municipality may, by by-law approved by the Minister of Housing, adopt a policy statement related to housing, containing specific objectives, production targets and financial arrangements. Adoption of policy statement related to housing

(2) Where a policy statement referred to in subsection (1) has been adopted by the Metropolitan Council and approved by the Minister of Housing, every housing policy statement that has been adopted by the council of an area municipality shall be amended forthwith to conform therewith and no housing policy statement of an area municipality shall thereafter be approved that does not conform with the housing policy statement of the Metropolitan Council and no by-law shall be passed by the Metropolitan Council or by the council of an area municipality that does not conform with the housing policy statement of the Metropolitan Council. By-laws, etc., to conform with housing policy statement 1974, c. 42, s. 10.

## PART XV

## PLANNING

**Metropolitan Toronto Planning Area** **200.**—(1) The Metropolitan Toronto Planning Area is continued as a joint planning area under the *Planning Act*. 1974, c. 42, s. 11, *part*.  
 R.S.O. 1980, c. 379

**Designated municipality** (2) The Metropolitan Corporation is the designated municipality within the meaning of the *Planning Act* for the purposes of The Metropolitan Toronto Planning Area and each area municipality is the designated municipality within the meaning of the *Planning Act* for the purposes of the subsidiary planning area it constitutes. 1978, c. 35, s. 11.

**Planning board dissolved** (3) The planning board for The Metropolitan Toronto Planning Area is dissolved.

**Area municipalities subsidiary planning areas** (4) Subject to the *Planning Act*, each area municipality is a subsidiary planning area within The Metropolitan Toronto Planning Area.

**Proviso** (5) Nothing in subsections (3) and (4) affects any official plan in effect in any part of the Metropolitan Area.

**Subsidiary plans** (6) When the Minister of Housing has approved an official plan adopted by the Metropolitan Council,

(a) every official plan and every by-law passed under section 39 of the *Planning Act* or a predecessor thereof then in effect in the planning area affected thereby shall be amended forthwith to conform therewith; and

(b) no official plan of a subsidiary planning area shall be adopted that does not conform therewith. 1974, c. 42, s. 11, *part*.

**Planning duties of Metropolitan Council** **201.**—(1) The Metropolitan Council shall investigate and survey the physical, social and economic conditions in relation to the development of The Metropolitan Toronto Planning Area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in The Metropolitan Toronto Planning Area, and without limiting the generality of the foregoing it shall,

(a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of The Metropolitan Toronto Planning Area;

(b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of The Metropolitan Toronto Planning Area in determining the solution of problems or matters affecting the development of The Metropolitan Toronto Planning Area; and

(c) consult with any local board having jurisdiction within The Metropolitan Toronto Planning Area.

(2) The Metropolitan Council shall prepare, adopt and forward to the Minister of Housing for approval an official plan for The Metropolitan Toronto Planning Area.

(3) The Metropolitan Council may appoint such planning committees and staff as it considers necessary. 1974, c. 42, s. 11, *part*.

(4) Subject to this Part, the Metropolitan Corporation shall be deemed to be a municipality and the Metropolitan Council a planning board for the purposes of section 1, subsections 2 (4), (6) and (7), sections 5, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25, 26, 27, subsection 29 (25), sections 36, 50 and 51 of the *Planning Act* and where the Metropolitan Council meets in respect of matters pertaining to planning for the purposes aforesaid no separate meeting as a planning board is required. 1978, c. 35, s. 12.

(5) The Metropolitan Corporation may enter into agreements with area municipalities or persons relating to conditions of approval of plans of subdivision and shall be deemed to have always had authority to enter into such agreements.

(6) The Metropolitan Corporation, with the approval of the Minister of Housing, may enter into agreements with any governmental authority, or any agency thereof created by statute for the carrying out of studies relating to The Metropolitan Toronto Planning Area or any part thereof. 1974, c. 42, s. 11, *part*.

**202.** Except as provided in this Part, the provisions of the *Planning Act* apply. 1974, c. 42, s. 11, *part*.

**203.** All the assets and liabilities of the planning board for The Metropolitan Toronto Planning Area are assets and liabilities of the Metropolitan Corporation and the Metropolitan Corporation, for all purposes, stands in the place and stead of the planning board for The Metropolitan Toronto Planning Area. 1974, c. 42, s. 11, *part*.

Sick leave  
credits,  
holidays and  
application of  
O.M.E.R.S.

**204.** Where a person who was employed by the planning board for The Metropolitan Toronto Planning Area immediately prior to the 1st day of January, 1975, is employed by the Metropolitan Corporation without intervening employment,

(a) employment with the planning board shall be deemed to have been employment with the Metropolitan Corporation for the purposes of sick leave credits and gratuities and holidays; and

(b) the employee, if a member of the pension plan of the Metropolitan Corporation, shall be deemed not to be a person who enters the employ of an employer within the meaning of clause 9 (1) (a) of the *Ontario Municipal Employees Retirement System Act*. 1974, c. 42, s. 11, *part*.

R.S.O. 1980,  
c. 348

Offer of  
employment

**205.**—(1) The Metropolitan Corporation shall offer to employ every person who, on the 1st day of June, 1974, is employed by the planning board for The Metropolitan Toronto Planning Area, and who continues to be so employed until the 31st day of December, 1974.

Entitlement  
to salary

(2) Any person who accepts employment under subsection (1) shall be entitled to receive a wage or salary up to and including the 31st day of December, 1975, of not less than he was receiving on the 1st day of June, 1974.

Termination  
of  
employment

(3) Nothing in this section prevents the Metropolitan Corporation from terminating the employment of an employee for cause. 1974, c. 42, s. 11, *part*.

## PART XVI

### PARKS, RECREATION AREAS, ETC.

Acquiring  
land for  
parks, etc.

**206.**—(1) The Metropolitan Council may pass by-laws for acquiring land for and establishing, laying out and improving and maintaining public parks, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Metropolitan Area or in any adjoining area municipality in The Regional Municipality of Durham or The Regional Municipality of Peel or in any area municipality in The Regional Municipality of York, and for exercising all or any of the powers that are conferred on boards of park management by the *Public Parks Act*. R.S.O. 1970, c. 295, s. 204 (1).

R.S.O. 1980,  
c. 417



(2) In addition to the powers that may be exercised under subsection (1), the Metropolitan Council has power to let from year to year, or for any time not exceeding ten years the right to sell, subject to the *Liquor Licence Act*, and the regulations made thereunder, spirituous, fermented or intoxicating liquors within metropolitan parks under such regulations as the Metropolitan Council may prescribe. 1971, c. 7, s. 2.

Sale of spirituous, etc., liquors in parks  
R.S.O. 1980, c. 244

(3) Paragraph 53 of section 208 of the *Municipal Act* applies with necessary modifications to the Metropolitan Corporation.

Application of R.S.O. 1980, c. 302

(4) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of the *Parks Assistance Act*.

Metropolitan Corporation a municipality under R.S.O. 1980, c. 367

(5) Where, under an agreement with The Metropolitan Toronto and Region Conservation Authority, lands vested in the Authority are managed and controlled by the Metropolitan Corporation, the Metropolitan Corporation may,

Park lands owned by Metropolitan Conservation Authority

(a) exercise all or any of the powers conferred on it under subsection (1) in respect of such lands;

(b) lay out, construct and maintain roads on such lands and, with the consent of the area municipality in which such lands, or any part thereof, are situate, assume the maintenance of existing roads on such lands, or any part thereof;

(c) subject to the *Highway Traffic Act*, regulate traffic on such roads and prescribe the rate of speed for motor vehicles driven on such roads in accordance with subsection 109 (3) of the *Highway Traffic Act*;

R.S.O. 1980, c. 198

(d) notwithstanding the provisions of any other Act, exempt from municipal taxation any such lands for so long as they are managed and controlled by the Metropolitan Corporation and used for park purposes.

(6) An exemption from taxes under subsection (5) shall be deemed to have the same effect as an exemption from taxes under section 3 of the *Assessment Act*. R.S.O. 1970, c. 295, s. 204 (2-5).

Tax exemption  
R.S.O. 1980, c. 31

**207.**—(1) Where the Metropolitan Corporation has acquired land under section 206, the Metropolitan Council may agree to pay annually to the area municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes in the year of acquisition if the land were not exempt from taxation.

Payments in lieu of taxes

## Proviso

(2) Subsection (1) does not apply where the land acquired by the Metropolitan Corporation was acquired from the municipality in which the land was situate or from a local board thereof and at the time of acquisition was used as a public park, recreation area, square, avenue, boulevard or drive. R.S.O. 1970, c. 295, s. 205.

## Assumption of existing parks, etc.

**208.**—(1) For the purposes of section 206, the Metropolitan Council may with the approval of the Municipal Board by by-law assume any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or in any local board thereof, and upon the passing of the by-law the public park, zoological gardens, recreation area, square, avenue, boulevard or drive vests in the Metropolitan Corporation.

## Existing debenture liability

(2) Where the Metropolitan Corporation assumes any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or local board thereof,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of the property assumed. R.S.O. 1970, c. 295, s. 206 (1, 2).

## Default

(3) If the Metropolitan Corporation fails to make any payments as required by clause (2) (b), the area municipality may charge the Metropolitan Corporation interest at the rate of 15 per cent per annum or such lower rate as the council of the area municipality determines, from the date payment is due until it is made. 1979, c. 64, s. 15.

## Settling of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the property assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 295, s. 206 (4).

## Assumption of C.N.E.

**209.**—(1) The Metropolitan Council may by by-law assume any of the lands in the City of Toronto designated or known as Exhibition Park or created by fill to the south thereof, saving and excepting any lands or any interest therein of

Her Majesty in right of Ontario, and the enactment of such by-law shall vest in the Metropolitan Corporation a full, clear and absolute title to the lands as described in such by-law free and clear of all conditions as to use contained in *An Act respecting the City of Toronto*, being chapter 86 of the Statutes of Ontario, 1903.

(2) No compensation or damages shall be payable by the Metropolitan Corporation to the City of Toronto for such assumed lands, but the Metropolitan Corporation shall thereafter pay before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued in respect of the property assumed, and the provisions of subsections 208 (3) and (4) apply with necessary modifications.

Existing  
debenture  
liability

(3) Such assumed lands shall be used,

Use of  
lands

- (a) for parks and exhibition purposes;
- (b) for the purposes of trade and agricultural fairs;
- (c) for the holding of displays, sporting events, public entertainments and meetings;
- (d) for highway, electrical transmission or public utility purposes; or
- (e) for any other purpose that the City of Toronto may approve.

(4) An exhibition shall be held annually on such assumed lands.

Annual  
exhibition

(5) With respect to the lands so assumed, the Metropolitan Council may exercise all or any of the powers that are conferred on boards of park management by the *Public Parks Act* and shall have all other powers required for the full and effective use of such assumed lands in accordance with subsection (3).

Powers  
under  
R.S.O. 1980,  
c. 417

(6) If any of the lands vested by this section in the Metropolitan Corporation cease to be used for the purposes of subsection (3), the Metropolitan Corporation shall thereupon transfer such lands to the City of Toronto, and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof.

Recon-  
veyance

(7) Such assumed lands shall be exempt from taxation for municipal purposes so long as such lands continue to be owned by the Metropolitan Corporation and used for the purposes of the Canadian National Exhibition Association,

Tax  
exemption

R.S.O. 1980,  
c. 31 provided that the full value of such lands, except the lands that are exempt from taxation under section 3 of the *Assessment Act*, shall be included in the assessment of the City of Toronto for the purposes of the apportionment of the levies of the Metropolitan Corporation among the area municipalities.

Agreements (8) Subject to subsection (9), upon the passing of the by-law referred to in subsection (1), the Metropolitan Corporation shall be responsible for all liabilities of the City of Toronto and is entitled to all benefits under agreements made by or on behalf of the City of Toronto with respect to the use of such assumed lands, and the City of Toronto shall be relieved of any liability thereunder.

Idem (9) Subsection (8) does not apply to agreements between the City of Toronto and the Metropolitan Corporation or to agreements for payments in lieu of taxes.

Water-  
mains, etc.,  
in assumed  
lands (10) The City of Toronto may continue to use, maintain, repair, reconstruct and replace watermains, sewers and sewage works in such assumed lands until and unless the areas in which such watermains, sewers and sewage works are located are required by the Metropolitan Corporation, in which case the Metropolitan Corporation shall pay to the City of Toronto such amount as may be agreed upon or, failing agreement, such amount as may be determined by arbitration, and the provisions of the *Expropriations Act* apply to any such arbitration.

R.S.O. 1980,  
c. 148

Personal  
property (11) The Metropolitan Corporation shall pay to the City of Toronto such amount for personal property on such assumed lands or in the buildings thereon as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto.

Agreements  
with C.N.E.,  
etc. (12) The Metropolitan Corporation may enter into agreements with the Canadian National Exhibition Association, the Royal Agricultural Winter Fair and other bodies respecting the use of such assumed lands, the charging of entrance or admission fees and any other matter or thing that the Metropolitan Council considers desirable for the full and effective use of such assumed lands for the purposes set out in subsection (3).

Grants, etc. (13) The Metropolitan Corporation may make grants to and erect and maintain buildings and structures for the use of the Canadian National Exhibition Association and other bodies and may enter into agreements with the Association and other bodies with respect to the operation and maintenance



throughout the year of all or any part of such assumed lands and any buildings or structures now or hereafter erected thereon.

(14) The Metropolitan Corporation may enter into an agreement with the Canadian National Exhibition Association appointing the Association as its agent to carry out any of the powers of the Metropolitan Corporation under this section, and, upon the execution of such an agreement, the Association is authorized to exercise such powers subject to such restrictions as may be set out in the agreement. R.S.O. 1970, c. 295, s. 207.

Agreement  
re C.N.E.  
as agent

**210.**—(1) In this section,

Interpre-  
tation

- (a) "Board" means the Board of Management of the Corporation;
- (b) "Corporation" means the Exhibition Stadium Corporation;
- (c) "Exhibition Stadium" means the land and buildings in Exhibition Park known as the Canadian National Exhibition Stadium in The Municipality of Metropolitan Toronto used for athletic contests, sporting events and public entertainments.

(2) The *Corporations Act* does not apply to the Corporation.

R.S.O. 1980,  
c. 95, not  
to apply

(3) The Exhibition Stadium Corporation is continued as a corporation without share capital having as its purpose and objects the operation, management and maintenance of the Exhibition Stadium as a stadium for the holding of athletic contests, sporting events, public entertainments and meetings.

Corporation  
continued

(4) There shall be a Board of Management of the Corporation consisting of seven members and composed of,

Board of  
Management

- (a) three members appointed by the Canadian National Exhibition Association from among its membership;
- (b) two members appointed by the Lieutenant Governor in Council;
- (c) the Metropolitan Chairman or his delegate who shall be a member of the Metropolitan Council; and
- (d) one member appointed by the Metropolitan Council, who shall be a member of the Metropolitan Council.

Term of  
office

(5) The members of the Board appointed under clauses (4) (a) and (b) shall be appointed for a term of office not exceeding three years, and the member of the Board appointed under clause (4) (d) shall be appointed for a term of office not exceeding his term of office in the Metropolitan Council, provided that such members shall be eligible for reappointment and provided that a member of the Board may at any time be removed from office before the expiration of his term by the person or body responsible under subsection (4) for his appointment, and such vacancy, or a vacancy resulting from death or resignation, may be filled by such person or body for the remainder of the unexpired term.

Chairman,  
vice-  
chairman  
and quorum

(6) The Board shall elect a chairman from among its members appointed by the Canadian National Exhibition Association and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers  
of  
Corporation

(7) The Corporation shall have,

- (a) a head office in The Municipality of Metropolitan Toronto;
- (b) a corporate seal upon which its corporate name shall appear;
- (c) capacity to sue and be sued in its own name;
- (d) capacity to enter into contracts, including contracts of employment, in its own name; and
- (e) all powers incidental or conducive to the attainment of the purpose and objects of the Corporation set out in subsection (3).

## By-laws

(8) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

## Management

(9) The Board shall manage or supervise the management of the business and affairs of the Corporation.

## By-laws

(10) The Metropolitan Council may by by-law establish general policies to be followed by the Corporation in the operation, management and maintenance of Exhibition Stadium.

(11) Except for the purposes of the *Ontario Municipal Employees Retirement System Act*, the Board shall be deemed not to be a local board of the Metropolitan Corporation.

Board deemed  
not local  
board  
R.S.O. 1980,  
c. 348

(12) The accounts and transactions of the Corporation shall be audited by the auditor for the Metropolitan Corporation.

Audit

(13) The Metropolitan Corporation shall be entitled to receive any surplus resulting from the operations of the Corporation and shall be responsible for any deficit incurred by the Corporation.

Surplus  
or  
deficit

(14) The Corporation may borrow money for its purposes with the prior approval of the Metropolitan Council.

Borrowing  
powers

(15) The Metropolitan Corporation may enter into one or more agreements with the Corporation providing for the management and control of Exhibition Stadium by the Corporation on such terms and conditions as the Metropolitan Council may consider proper.

Agreements

(16) The occupation, management and control of Exhibition Stadium by the Corporation under an agreement under subsection (15) shall be deemed, for the purposes of paragraph 9 of section 3 of the *Assessment Act*, to be occupation, management and control by the Metropolitan Corporation of lands used for the purposes set out in subsection 209 (3) of this Act. 1975, c. 22, s. 4, *part*.

Taxation

R.S.O. 1980,  
c. 31

**211.** The Metropolitan Corporation may acquire, erect, alter, maintain, operate and manage stadia, and may charge fees in connection therewith. 1975, c. 22, s. 4, *part*.

Stadia

**212.—**(1) The Metropolitan Corporation may acquire the theatre in the City of Toronto known as the O'Keefe Centre and the land used in conjunction therewith, and for such purpose may enter into an agreement providing for payment of purchase moneys over a period of years without the approval of the Municipal Board and for the occupation by the Metropolitan Corporation of such land and building during such period.

Acquisition  
of O'Keefe  
Centre

(2) The corporation known as "The Board of Management of the O'Keefe Centre", in this section referred to as the Board of Management, is continued and such Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts, including contracts of employment, and shall have all powers necessary for the operation, management and maintenance of such Centre as a theatre and auditorium and as a centre for the holding of meetings, receptions and displays of every kind.

Board  
continued

## Policies

(3) The Metropolitan Council may by by-law establish general policies to be followed by the Board of Management in the operation and management of the Centre. R.S.O. 1970, c. 295, s. 208 (1-3).

## Composition

(4) The Board of Management shall be composed of not less than three and not more than seven persons, who shall be appointed by the Metropolitan Council by resolution for such terms of office as the Council may determine. R.S.O. 1970, c. 295, s. 208 (4); 1974, c. 42, s. 12.

Chairman,  
quorum

(5) The Board of Management, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of its members constitutes a quorum. R.S.O. 1970, c. 295, s. 208 (5).

Deemed not  
local board  
except for  
R.S.O. 1980,  
c. 348

(6) Except for the purposes of the *Ontario Municipal Employees Retirement System Act*, the Board of Management shall be deemed not to be a local board of the Metropolitan Corporation. 1979, c. 64, s. 16 (1).

## Audit

(7) The accounts and transactions of the Board of Management shall be audited by the auditor for the Metropolitan Corporation.

## Pensions

(8) The Board of Management may provide pensions for its employees or any class thereof and their wives and children, and may enter into agreements with any person for such purpose..

Respon-  
sibility of  
Metropolitan  
Corporation

(9) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board of Management and is responsible for any deficit incurred by it, but the Board of Management shall not borrow money without the approval of the Metropolitan Council. R.S.O. 1970, c. 295, s. 208 (7-9).

## Taxation

(10) The occupation, management and control by the Board of Management of the land acquired by the Metropolitan Corporation under this section shall be deemed, for the purposes of paragraph 9 of section 3 of the *Assessment Act*, to be occupation, management and control by the Metropolitan Corporation. 1979, c. 64, s. 16 (2).

R.S.O. 1980,  
c. 31

Interpre-  
tation

**213.**—(1) In this section and in section 214,

(a) “Board of Management” means the Board of Management of the Metropolitan Toronto Zoo;

(b) “Metropolitan Toronto Zoo” means the zoological garden and related facilities which have been established by the Metropolitan Council or which may hereafter be established by the Council;



(c) "Society" means the Metropolitan Toronto Zoological Society.

(2) The corporation without share capital known as the "Board of Management of the Metropolitan Toronto Zoo" is continued and the Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts including contracts of employment, and shall have all powers necessary for or incidental to the operation, management and maintenance of the Metropolitan Toronto Zoo.

Board continued

(3) The *Corporations Act* does not apply to the Board of Management.

R.S.O. 1980, c. 95 not to apply

(4) The Board of Management shall be composed of nine members appointed by the Metropolitan Council, of whom four shall be nominees of the Society.

Composition of Board

(5) The members of the Board of Management shall be appointed for a term of office not exceeding the term of office of members of the Metropolitan Council and shall hold office until their successors are appointed.

Term of office

(6) The Board of Management, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of its members constitutes a quorum.

Chairman, vice-chairman, quorum

(7) The Board of Management may from time to time establish such standing or other committees, appoint as members thereof such persons, including members of the Society, and assign such duties to the committees so established as the Board deems fit.

Committees

(8) Notwithstanding subsection (7), the Board of Management shall establish an Animal Acquisition Committee and the Society may appoint one member, or with the approval of the Board of Management more than one member, of such Committee.

Animal Acquisition Committee

(9) The Board of Management may enact by-laws for the regulation of its proceedings and for the conduct and management of its affairs.

By-laws

(10) The Metropolitan Corporation may enter into one or more agreements with the Board of Management entrusting the operation, management and maintenance of the Metropolitan Toronto Zoo to the Board of Management on such terms and conditions as the Metropolitan Council may consider proper.

Agreement to operate, manage and maintain Zoo

By-laws  
regeneral  
policies

(11) The Metropolitan Council may by by-law establish general policies to be followed by the Board of Management in the operation, management and maintenance of the Metropolitan Toronto Zoo under an agreement entered into under subsection (10).

Surplus or  
deficit

(12) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board of Management and is responsible for any deficit incurred by it.

Occupation  
by Board  
deemed  
occupation  
by Metro-  
politan  
Corporation  
R.S.O. 1980,  
c. 31

(13) The occupation, management and control of lands by the Board of Management under an agreement under subsection (10) shall be deemed for the purposes of subsections 206 (5) and (6) of this Act and of paragraph 9 of section 3 of the *Assessment Act*, to be occupation, management and control by the Metropolitan Corporation of lands used for park purposes.

Application  
of  
R.S.O. 1980,  
c. 305

(14) The *Municipal Conflict of Interest Act* does not apply to a member of the Board of Management in respect of a contract, proposed contract or other matter between the Board of Management and the Society by reason only of such member being a member or officer of the Society. 1977, c. 68, s. 1, *part*.

Offer of  
employment

**214.**—(1) The Board of Management shall offer to employ every person who, on the 1st day of July, 1977, is employed by the Society in connection with the operation, management and maintenance of the Metropolitan Toronto Zoo and who continues to be so employed until the date of coming into force of an agreement under subsection 213 (10).

Wages and  
salaries

(2) Any person who accepts employment under subsection (1) shall be entitled to receive a wage or salary up to and including the 31st day of December, 1978, of not less than he was receiving on the 1st day of July, 1977.

Pension  
benefits

(3) Employment with the Society by a person who accepts employment with the Board of Management under subsection (1) shall be deemed to have been employment with the Board of Management for the purposes of pension benefits.

Sick leave  
credits

(4) Any sick leave credits standing, on the 31st day of December, 1977, to the credit of any person who accepts employment under subsection (1) shall be placed to the credit of such employee in any sick leave credit plan established by the Board of Management.

Holidays

(5) Any person who accepts employment under subsection (1) shall be entitled during 1978 to holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the Society.

(6) Nothing in this section prevents the Board of Management from terminating the employment of an employee for cause. 1977, c. 68, s. 1, *part.* Dismissal  
for cause

**215.**—(1) For the purposes of section 206, all land comprising Toronto Islands owned by the City of Toronto and all rights of the City of Toronto to use and occupy land comprising Toronto Islands owned by The Toronto Harbour Commissioners, except such portions of all such lands as are set aside and used or required for the purposes of the Toronto Island Airport, are vested in the Metropolitan Corporation as of the 1st day of January, 1956, subject to the provisions of then existing leases, and, subject to subsection (2), no compensation or damages shall be payable to the City of Toronto in respect thereof. Lands on  
Toronto  
Islands  
transferred

(2) The Metropolitan Corporation shall pay to the City of Toronto, Metropolitan  
Corporation  
liability

- (a) before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City of Toronto for the purposes of the land and rights vested by this section in the Metropolitan Corporation;
- (b) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for shore protection of Algonquin Island;
- (c) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for acquisition of leasehold interests and clearing of sites;
- (d) such amount for personal property, exclusive of leaseholds, transferred to the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto;
- (e) the amount of the expenses incurred by the City of Toronto after the 1st day of January, 1956, with respect to the operation and maintenance of the land and rights vested by this section in the Metropolitan Corporation.

(3) Where any portion of the land and rights vested by this section in the Metropolitan Corporation is being used by the City of Toronto for the purpose of providing municipal services other than park and recreation services, the City of Toronto may continue to use such portion rent free so long as it is required to provide such municipal services. Use by  
City of  
Toronto

Metropolitan  
Corporation  
liable for  
lighting, etc.

(4) The Metropolitan Corporation shall pay to the City of Toronto annually such amount for the lighting, refuse collection and disposal services provided by the City of Toronto in respect of the land and rights vested by this section in the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto.

Lands not  
used for  
park  
purposes

(5) If any of the land vested by this section in the Metropolitan Corporation and any land comprising Toronto Islands, which is hereafter conveyed by The Toronto Harbour Commissioners to the Metropolitan Corporation, ceases to be used for any of the purposes of section 206, the Metropolitan Corporation shall thereupon transfer such land to the City of Toronto and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof; provided this subsection does not apply to any land so long as it continues to be used as at the 1st day of January, 1956, under any then existing lease or renewal or extension thereof.

Settling  
of doubts

(6) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of the land and rights vested by this section in the Metropolitan Corporation or of failure to agree as to the amount to be paid for the personal property transferred to the Metropolitan Corporation or as to the amount to be paid for lighting, refuse collection and disposal services provided by the City of Toronto, the Municipal Board, upon application, may determine the matter, and its decision is final.

Ferry  
service

(7) Notwithstanding any other provision in this Act, the Metropolitan Corporation may establish, maintain and operate a ferry service for providing access to the lands vested in the Metropolitan Corporation under this section for so long as such lands or any part thereof remain so vested and are used for park purposes, and, for such purposes, the Metropolitan Corporation may assume the rights, equipment and other assets of the Toronto Transit Commission used in providing such service subject only to the payment of any outstanding liability in respect thereto and such adjustment as the Metropolitan Corporation may determine and may enter into agreements with any person with respect to the provision of such service.

Bus system  
on Toronto  
Islands

(8) Notwithstanding any other provision in this Act, the Metropolitan Corporation may establish, maintain and operate a public bus transportation system on the Toronto Islands and for such purposes the Metropolitan Corporation may,

(a) maintain and operate buses for the conveyance of passengers;



- (b) acquire by purchase or otherwise any real or personal property required for the establishment, operation, maintenance or extension of the system; and
- (c) fix transportation fares and tolls and make regulations with respect to the operation and control of the system. R.S.O. 1970, c. 295, s. 210.

## PART XVII

### FINANCES

**216.** In this Part, “rateable property” includes business and other assessment made under the *Assessment Act*. R.S.O. 1970, c. 295, s. 211. Interpretation  
R.S.O. 1980,  
c. 31

**217.**—(1) For the purposes of this section, “municipality” includes a metropolitan, regional or district municipality. 1974, c. 42, s. 13, *part*. Interpretation

(2) Where the Metropolitan Corporation or an area municipality has moneys not required immediately by the Metropolitan Corporation or the area municipality, such moneys may be, Investment  
of moneys not  
immediately  
required

(a) invested in,

- (i) bonds, debentures, or other evidences of indebtedness of or guaranteed by the Government of Canada, the Province of Ontario, or any other province of Canada,
- (ii) debentures, notes or guaranteed investment certificates of or term deposits with any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*, R.S.O. 1980,  
c. 249
- (iii) term deposits, deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued, accepted, guaranteed or endorsed by a chartered bank to which the *Bank Act* (Canada) applies, 1980-81,  
c. 40 (Can.)
- (iv) promissory notes of a metropolitan, regional or district municipality or of a municipality as defined in the *Municipal Affairs Act*, or of a conservation authority established under the *Conservation Authorities Act*, R.S.O. 1980,  
cc. 303, 85
- (v) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*; or R.S.O. 1980,  
c. 102

- (b) advanced to the capital account of the Metropolitan Corporation or the area municipality for the purpose of interim financing of capital undertakings,

provided that the moneys invested or advanced are repayable by the day on which they are required by the Metropolitan Corporation or the area municipality, and the investments are in other respects reasonable and proper. 1974, c. 42, s. 13, *part*; 1976, c. 42, s. 16; 1979, c. 64, s. 17 (1).

Deemed municipality for purposes of R.S.O. 1980, c. 102, s. 35

- (3) The Metropolitan Corporation is deemed to be a municipality for the purposes of section 35 of the *Credit Unions and Caisses Populaires Act*. 1979, c. 64, s. 17 (2).

#### YEARLY LEVIES AND ESTIMATES

Yearly estimates

**218.**—(1) The Metropolitan Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the Metropolitan Corporation, including the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Ministry may from time to time prescribe.

Allowance to be made in estimates

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year which will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Ministry may approve but shall not make any allowance for payments to be received during the current year under the *Ontario Unconditional Grants Act*. R.S.O. 1970, c. 295, s. 213; 1972, c. 1, s. 1.

R.S.O. 1980, c. 359

Levy on area municipalities

**219.**—(1) The Metropolitan Council shall in each year levy against the area municipalities a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted;
- (b) for payment of all debts of the Metropolitan Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the Metropolitan Corporation is liable under this Act.

Apportionment

(2) The Metropolitan Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection (1) shall be levied against and in each area municipality.

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for public school purposes in each of the area municipalities bears to the whole rateable property rateable for public school purposes in the Metropolitan Area, according to the last revised assessment rolls. Public school purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for secondary school purposes in each of the area municipalities bears to the whole rateable property rateable for secondary school purposes in the Metropolitan Area, according to the last revised assessment rolls. Secondary school purposes

(5) All other amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the Metropolitan Area, according to the last revised assessment rolls. Other purposes

(6) Notwithstanding subsections (3), (4) and (5), the Metropolitan Council may pass its by-law under subsection (2) before the assessment rolls of all the area municipalities are revised by the Assessment Review Court, and in that case the levies shall be apportioned among the area municipalities according to the last revised assessment rolls of those area municipalities whose assessment rolls have been so revised and the assessment rolls as returned of those area municipalities whose assessment rolls have not been so revised. Apportionment where all rolls not revised

(7) Where the by-law under subsection (2) is passed as provided in subsection (6), the Metropolitan Council shall, forthwith after the assessment rolls of all the area municipalities have been revised by the Assessment Review Court, amend the by-law so as to make the apportionments among the area municipalities according to the assessment rolls as so revised, and, Adjustment

- (a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Metropolitan Corporation; and
- (b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay to the treasurer of the Metropolitan Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Metropolitan Cor-

poration shall pay the amount of the decrease to the treasurer of the area municipality.

Fixed assessments, etc., not to apply

R.S.O. 1980, c. 31

(8) The apportionment of the levy among the area municipalities as provided for in subsections (2) to (5) shall be based on the full value of all rateable property, and no fixed assessment other than a fixed assessment under section 22 of the *Assessment Act* or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of the *Assessment Act*. R.S.O. 1970, c. 295, s. 214 (1-8).

Assessment upon which levy apportioned to include valuations on properties for which payments in lieu of taxes paid

(9) Notwithstanding anything in this section, the assessment upon which the levy among the area municipalities shall be apportioned shall include the valuations of all properties for which payments in lieu of taxes are paid by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or Ontario Hydro to any area municipality. R.S.O. 1970, c. 295, s. 214 (9); 1973, c. 57, s. 19.

Valuations of properties in respect of which grants in lieu of taxes received

(10) The clerk of an area municipality shall transmit to the clerk of the Metropolitan Corporation, within sixty days of the receipt of a grant paid in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such grant was made.

Levy by-laws

(11) One by-law or several by-laws for making the levies may be passed as the Metropolitan Council considers expedient.

Certificate of levy

(12) The clerk of the Metropolitan Corporation shall forthwith after the metropolitan levies have been apportioned certify to the clerk of each area municipality the amount that has been so directed to be levied therein for the then current year for metropolitan purposes showing separately the amounts required for public school purposes, secondary school purposes and general purposes.

Local levies for metropolitan purposes

(13) Subject to subsections 36 (4), (5) and (6) of the *Assessment Act*, in each area municipality, the metropolitan levy,

- (a) for public school purposes, shall be calculated and levied upon the whole rateable property rateable for public school purposes;
- (b) for secondary school purposes, shall be calculated and levied upon the whole rateable property rateable for secondary school purposes; and
- (c) for all other purposes, shall be calculated and levied upon the whole rateable property rateable for such purposes,



within such area municipality according to the last revised assessment roll thereof.

(14) All money levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the Metropolitan Corporation and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by the by-law of the Metropolitan Council mentioned in subsection (2). R.S.O. 1970, c. 295, s. 214 (10-14). Payment

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum or such lower rate as the Metropolitan Council determines, from the date payment is due until it is made. 1979, c. 64, s. 18. Default

**220.**—(1) Notwithstanding section 219, the Metropolitan Council may, in any year before the adoption of the estimates for that year, levy against each of the area municipalities a sum not exceeding 50 per cent of the levy made by the Metropolitan Council in the preceding year against that area municipality or against the former area municipalities included within that area municipality, and subsections 219 (14) and (15) apply to such a levy. Levy authorized before estimates adopted

(2) The amount of any levy made under subsection (1) shall be deducted from the amount of the levy made under section 219. R.S.O. 1970, c. 295, s. 215. Levy under s. 219 to be reduced

#### RESERVE FUNDS

**221.**—(1) The Metropolitan Council, or The Metropolitan Toronto School Board or the Metropolitan Toronto Library Board with the approval of the Metropolitan Council, may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds. 1976, c. 72, s. 4 (1). Reserve funds

(2) The moneys raised for a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund. R.S.O. 1970, c. 295, s. 216 (2). Investments and income  
R.S.O. 1980, c. 512

(3) The moneys raised for a reserve fund established under subsection (1) shall not be expended, pledged or applied to any purpose other than that for which the fund was established, unless approved by the Metropolitan Council. 1976, c. 72, s. 4 (2). Expenditure of reserve fund moneys

Auditor to  
report on  
reserve  
funds

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection (1). R.S.O. 1970, c. 295, s. 216 (4).

#### TEMPORARY LOANS

Current  
borrowings

**222.**—(1) The Metropolitan Council may by by-law, either before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the chairman and treasurer to borrow from time to time by way of promissory note such sums as the Metropolitan Council considers necessary to meet, until the levies and other revenues are received, the current expenditures of the Metropolitan Corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the Metropolitan Corporation and the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation. 1977, c. 37, s. 2 (1).

Limit upon  
borrowings

(2) The amount that may be borrowed in any year for the purposes mentioned in subsection (1) shall not, except with the approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the year.

Temporary  
application  
of estimates  
of preceding  
year

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection (2) shall temporarily be calculated upon the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the next preceding year.

Exclusion  
from  
estimated  
revenues

(4) For the purposes of subsections (2) and (3), estimated revenues shall not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of levies and proceeds from the sale of assets.

Protection  
of lender

(5) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Execution of  
promissory  
notes

(6) Any promissory note made under the authority of this section shall be sealed with the seal of the Metropolitan Corporation and signed by the chairman or by some other person authorized by by-law to sign it, and by the treasurer, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. R.S.O. 1970, c. 295, s. 217 (2-6).

Idem

(7) The signature of the chairman or any other person authorized to sign promissory notes may be written, stamped, lithographed, engraved or otherwise mechanically reproduced

on promissory notes made under this section and, if such promissory note is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced. 1977, c. 37, s. 2 (2).

(8) The Metropolitan Council may by by-law provide or authorize the chairman and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the Metropolitan Corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Creation  
of charge

(9) Any agreement entered into under subsection (8) shall be sealed with the corporate seal and signed by the chairman and treasurer.

Execution of  
agreements

(10) If the Metropolitan Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for  
excess  
borrowings

(11) If the Metropolitan Council authorizes the application of any revenues of the Metropolitan Corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Penalty for  
misapplication  
of  
revenues by  
Metropolitan  
Council

(12) If any member of the Metropolitan Council or officer of the Metropolitan Corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. R.S.O. 1970, c. 295, s. 217 (7-11).

Penalty for  
misapplication  
of  
revenues by  
officials

(13) Subsections (10), (11) and (12) do not apply to the Metropolitan Council or any member of the Metropolitan Council or officer of the Metropolitan Corporation acting under an order or direction issued or made under the authority of Part III of the *Municipal Affairs Act*, nor do they apply in any case where application of the revenues of the Metropolitan Corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1970, c. 295, s. 217 (12); 1972, c. 1, s. 104 (6).

Savings as  
to penalties

R.S.O. 1980,  
c. 303

## DEBT

Debt

R.S.O. 1980,  
c. 347

**223.**—(1) Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act*, the Metropolitan Council may borrow money for the purposes of,

- (a) the Metropolitan Corporation, including the purposes of the Toronto Transit Commission and of the Metropolitan Toronto Library Board;
- (b) any area municipality;
- (c) the joint purposes of any two or more area municipalities;
- (d) any board of education in the Metropolitan Area,

whether under this or any general or special Act, and may issue debentures therefor on the credit of the Metropolitan Corporation.

Authority  
to expend  
moneys for  
rapid transit  
extension

(2) Notwithstanding any other provision of this Part, the Metropolitan Corporation may expend moneys for the purposes of an extension to the rapid transit system of the Toronto Transit Commission and may issue debentures therefor for any term or terms not exceeding forty years and may, with the approval of the Municipal Board, provide for the refinancing of not more than one-half of the amount of any such issue at the end of the term thereof, provided that the total period for repayment of the debt created shall not exceed forty years.

Liability

(3) All debentures issued pursuant to a by-law passed by the Metropolitan Council under the authority of this Act are direct, joint and several obligations of the Metropolitan Corporation and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities but nothing in this subsection affects the rights of the Metropolitan Corporation and of the area municipalities respectively as among themselves.

Limitation

(4) Notwithstanding any general or special Act, no area municipality has, after the 31st day of December, 1953, power to issue debentures.

Uncom-  
pleted works

(5) When an area municipality, prior to the 31st day of December, 1953,



- (a) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 64 (1) of the *Ontario Municipal Board Act*; and

R.S.O. 1980,  
c. 347

- (b) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the Metropolitan Council, upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the Metropolitan Corporation for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 226, and no further approval of the Municipal Board is required.

(6) Bonds, debentures and other evidences of indebtedness of the Metropolitan Corporation shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation of the purposes of the *Trustee Act*. R.S.O. 1970, c. 295, s. 218.

Bonds,  
debentures,  
etc., trustee  
investments

R.S.O. 1980,  
c. 512

**224.**—(1) Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act*, the Metropolitan Corporation may by by-law incur a debt or issue debentures for the purposes set forth in subsection 223 (1) of this Act and, notwithstanding any general or special Act, such by-law may be passed without the assent of the electors of the Metropolitan Area.

Power to  
incur debt  
or issue  
debentures

(2) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the Metropolitan Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the Metropolitan Council has been obtained.

Idem

(3) Nothing in subsection (2) requires the assent of any electors where such assent has been dispensed with under section 63 of the *Ontario Municipal Board Act*. R.S.O. 1970, c. 295, s. 220.

Proviso

R.S.O. 1980,  
c. 347

**225.**—(1) Notwithstanding any other provisions in this Act or any other general or special Act, when the Municipal Board has

Agreement  
for  
issue and  
sale of  
debentures

authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes or for the purposes of any area municipality or board of education, the Metropolitan Council may by by-law authorize the chairman and treasurer subject to such terms and conditions as the by-law specifies to enter into an agreement or agreements, upon such terms and conditions including price or prices as the chairman and the treasurer consider expedient, with any person or persons at any time in the year in which the by-law is passed for the issue and sale of debentures.

Maximum  
amount of  
money

(2) A by-law passed under subsection (1) shall set out the maximum amount of money which may be raised by the issue and sale of debentures under such by-law.

Report

(3) Where an agreement has been entered into in accordance with subsection (1), the treasurer shall report the terms of the agreement to the Metropolitan Council not later than the second regular council meeting next following the entering into of the agreement.

Passage of  
money  
by-laws

(4) Where the chairman and treasurer have entered into an agreement or agreements authorized under subsection (1), the Metropolitan Council shall pass all necessary money by-laws in accordance with section 227 and with such agreement or agreements. 1980, c. 39, s. 9.

Borrowing  
pending  
issue and  
sale of  
debentures

**226.**—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes, the Metropolitan Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time for the purpose authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan.

Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for the purposes of an area municipality or a board of education, the Metropolitan Council pending the issue and sale of the debentures may, and on the request of the area municipality or board of education shall, agree with a bank or person for temporary advances from time to time for the purposes authorized, and may, or on the request of the area municipality or board of education shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to

the area municipality or board of education. 1977, c. 37, s. 3 (1).

(3) The Metropolitan Corporation may charge interest on any proceeds of an advance or loan transferred under subsection (2) at a rate sufficient to reimburse it for the cost of such advance or loan.

Interest on proceeds transferred

(4) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality or board of education, the balance, subject to section 238, shall be transferred to the area municipality or board of education.

Application of proceeds of loan

(5) Subject to subsection (3), the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. R.S.O. 1970, c. 295, s. 222 (3-5).

Hypothecation not to prevent subsequent sale of debentures

(6) The signature of the chairman or any other person authorized to sign loan agreements may be written, stamped, lithographed, engraved or otherwise mechanically reproduced on loan agreements made under this section and, if such loan agreement is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced. 1977, c. 37, s. 3 (2).

Signature of chairman, etc., may be mechanically reproduced

**227.**—(1) Subject to subsection (2), a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Principal and interest payments

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures.

Sinking fund debentures

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

When debentures to be payable

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities, the whole or specified portions of the sums of principal and

Special levy against area municipalities



interest payable under the by-law in such year, and each such area municipality shall pay to the Metropolitan Corporation such sums at the times and in the amounts specified in the by-law.

General  
levy

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

Levy by  
area muni-  
cipalities

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection (4) may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality, for the same purpose, for the portion of the debt levied against it under subsection (4).

Levies  
a debt

(7) All levies imposed by the by-law against an area municipality are a debt of the area municipality to the Metropolitan Corporation.

By-law to  
change mode  
of issuing  
debentures

(8) The Metropolitan Council may by by-law authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons instead of in amounts of combined principal and interest or *vice versa*, and where any debentures issued under the by-law have been sold, pledged or hypothecated by the Metropolitan Council, upon again acquiring them, or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. R.S.O. 1970, c. 295, s. 223 (1-8).

Debentures,  
when to be  
dated and  
issued

(9) All the debentures shall be issued within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the Metropolitan Council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years after the passing of the by-law. R.S.O. 1970, c. 295, s. 223 (9); 1976, c. 42, s. 17 (1).



(10) All the debentures shall bear the same date, except where they are issued in sets, in which case every debenture of the same set shall bear the same date. <sup>Date of debentures</sup>

(11) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection (9) and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year. <sup>Idem</sup>

(12) The Municipal Board, on the application of the Metropolitan Council, the council of any area municipality, a board of education or any person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law. <sup>Extension of time for issue</sup>

(13) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set. <sup>Application after time expired</sup>

(14) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing. <sup>Effective date</sup>

(15) Notwithstanding any general or special Act, the Metropolitan Council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor. R.S.O. 1970, c. 295, s. 223 (10-15). <sup>Consolidation</sup>

(16) Subsections 143 (4) and (16), sections 144 and 145, and subsections 147 (1) and (2) of the *Municipal Act* apply with necessary modifications to the Corporation. <sup>Debenture registration and retirement fund R.S.O. 1980, c. 302</sup>

(17) Subsection 183 (4) of the *Municipal Act* applies and shall be deemed to have always applied, with necessary modifications, to the Metropolitan Corporation. <sup>Registration of debenture as to principal and interest</sup>

(18) The retirement fund for term debentures shall be administered by the sinking fund committee in all respects in the same manner as a sinking fund established under this section, and the provisions of subsections (23) to (43) of this section with respect to a sinking fund shall apply with necessary modifications to such retirement fund. 1976, c. 42, s. 17 (2). <sup>Administration of retirement fund</sup>

(19) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the Metropolitan Corporation on any date prior to maturity subject to the following provisions: <sup>Redemption before maturity</sup>

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the principal thereof, the interest to the date set for redemption, and any premium payable on redemption.
3. Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.
4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily newspaper of general circulation in the City of Toronto and in such other manner as the by-law may provide.
5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debentures issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.
6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council in respect of the debenture so redeemed. R.S.O. 1970, c. 295, s. 223 (17).

Currency

(20) The by-law may provide that the debentures to be issued thereunder shall be expressed and be payable,

- (a) in lawful money of Canada and payable in Canada;  
or
- (b) in lawful money of the United States of America and payable in the United States of America; or

- (c) in lawful money of Great Britain and payable in Great Britain; or
- (d) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States of America, or Great Britain. R.S.O. 1970, c. 295, s. 223 (18); 1975, c. 22, s. 6 (1).

(21) Where under the provisions of the by-law debentures<sup>Annual rates</sup> issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, or in any currency other than that of Canada, the Metropolitan Council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary. R.S.O. 1970, c. 295, s. 223 (19); 1975, c. 22, s. 6 (2).

(22) When sinking fund debentures are issued, the amount<sup>Principal levies</sup> of principal to be raised in each year shall be a specific sum which, with the estimated interest at a rate not exceeding 5 per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due. R.S.O. 1970, c. 295, s. 223 (20); 1975, c. 22, s. 6 (3).

(23) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank<sup>Consolidated bank accounts</sup> accounts in which,

- (a) the treasurer of the Metropolitan Corporation shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and
- (b) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or payment of, sinking fund investments.

(24) When sinking fund debentures are issued, there shall<sup>Sinking fund committee</sup> be a sinking fund committee which shall be composed of the treasurer of the Metropolitan Corporation and two members appointed by the Metropolitan Council, and the two appointed members shall be paid, out of the current fund of the Metropolitan Corporation, such annual remuneration as the Metropolitan Council may determine. R.S.O. 1970, c. 295, s. 223 (21, 22).

(25) The Metropolitan Council may appoint an alternate<sup>Alternate members</sup> member for each of the appointed members and any such

alternate member has all the powers and duties of the member in the absence or inability to act of such member and any such alternate member may be paid, out of the current fund of the Metropolitan Corporation, such remuneration as the Metropolitan Council determines. 1976, c. 72, s. 5.

Chairman (26) The treasurer of the Metropolitan Corporation shall be the chairman and treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer.

Security (27) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the Metropolitan Corporation shall determine, and in other respects the provisions of section 94 of the *Municipal Act* apply with respect to such security.

R.S.O. 1980,  
c. 302

Quorum (28) Two members of the sinking fund committee are a quorum, and all investments and disposals of investments must be approved by a majority of all the members of the committee.

Control of  
sinking  
fund assets

(29) All assets of the sinking funds, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee.

With-  
drawals  
from bank  
accounts

(30) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee.

Investments

(31) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank accounts and may at any time or times vary any investments. R.S.O. 1970, c. 295, s. 223 (24-29).

Idem

(32) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms:

R.S.O. 1980,  
c. 512

(a) in securities in which a trustee may invest under the *Trustee Act*;

(b) in debentures of the Metropolitan Corporation;

(c) in temporary advances to the Metropolitan Corporation pending the issue and sale of any debentures of the Metropolitan Corporation;



- (d) in temporary loans to the Metropolitan Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made;
- (e) in securities issued by the United States of America;
- (f) in such other securities as are authorized by the Lieutenant Governor in Council. R.S.O. 1970, c. 295, s. 223 (30); 1975, c. 22, s. 6 (4).

(33) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario.

Deposit of  
securities  
with  
Treasurer  
of Ontario

(34) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection (33) only upon the direction in writing of the sinking fund committee.

Release of  
securities  
by Treasurer  
of Ontario

(35) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws, shall be deemed one debt and be represented by one sinking fund account.

Sinking  
fund  
accounts

(36) That proportion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments, obtained by,

Earnings  
credited to  
sinking fund  
account

- (a) multiplying the amount of all such earnings by the amount of the capitalized interest for that year under subsection (22) with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and
- (b) dividing the product obtained under clause (a) by the amount of all capitalized interest for that year under subsection (22) with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account mentioned in clause (a).

(37) The treasurer of the Metropolitan Corporation shall prepare and lay before the Metropolitan Council in each year, before the annual metropolitan levies are made, a statement showing the sums that the Metropolitan Council will be required, by by-law, to raise for sinking funds in that year.

Sinking fund  
requirements

## Offence

(38) If the treasurer contravenes subsection (23) or (37), he is guilty of an offence and on conviction is liable to a fine of not more than \$250.

## Failure to levy

(39) If the Metropolitan Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the Metropolitan Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount.

## Where amount in sinking fund account more than sufficient to pay debt

(40) Notwithstanding this or any other Act or by-law, if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection (36) together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay the principal of the debt represented by such sinking fund account when it matures, the Municipal Board on the application of the sinking fund committee, the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board or a board of education in the Metropolitan Area may authorize the Metropolitan Council or the council of an area municipality to reduce the amount of money to be raised with respect to such debt in accordance with the order of the Municipal Board.

## No diversion of sinking funds

(41) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the Metropolitan Corporation or otherwise than is provided in this section. R.S.O. 1970, c. 295, s. 223 (31-39).

## Surplus

(42) When, after the debentures for which any sinking fund was provided have been paid off or fully provided for, there is a surplus in a sinking fund account, the sinking fund committee shall,

- (a) use the surplus to increase the amount at the credit of another sinking fund account; or
- (b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes:
  - (i) to retire unmatured debentures of the Metropolitan Corporation or of an area municipality,
  - (ii) to reduce the next annual levy on account of principal and interest payable with re-

spect to debentures of the Metropolitan Corporation or of an area municipality,

- (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,
- (iv) to defray the cost of other capital expenditures in lieu of the issue of debentures therefor,

and the surplus shall be used under either clause (a) or (b) for the purposes of the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board for public schools, The Metropolitan Toronto School Board for secondary schools, a board of education for public schools, a board of education for secondary schools, the Toronto Transit Commission, a hydro-electric system and the metropolitan waterworks in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose. 1975, c. 22, s. 6 (5).

(43) Notwithstanding that any sinking fund debentures have been issued for the purposes of one or more area municipalities or of a board of education, any deficit in the sinking fund account shall be provided by the Metropolitan Corporation out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection (42). Deficit and surplus  
R.S.O. 1970, c. 295, s. 223 (41).

(44) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the Metropolitan Corporation except as to the availability of any sinking funds applicable to any particular issue of debentures. 1976, c. 42, s. 17 (3). Debentures rank *pari passu*

**228.**—(1) Subsection 152 (1) of the *Municipal Act* applies with necessary modifications to the Metropolitan Council. 1976, c. 72, s. 6. Application of R.S.O. 1980, c. 302, s. 152 (1)

(2) For the purposes of this section, the hypothecation of debentures under section 226 shall not constitute a sale or other disposal thereof. Hypothecation not a sale under this section

Consolidation of debentures

(3) The Metropolitan Council may by one by-law authorized under subsection (1) amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Special assessments and levies

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council. R.S.O. 1970, c. 295, s. 224 (2-4).

Repeal of by-law when part only of money to be raised

**229.**—(1) Where part only of a sum of money provided for by a by-law has been raised, the Metropolitan Council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

When to take effect

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1970, c. 295, s. 225.

Until debt paid certain by-laws cannot be repealed

**230.**—(1) Subject to section 229, after a debt has been contracted under a by-law, the Metropolitan Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the Metropolitan Corporation that has been directed to be applied to such payment.

Application of payments

(2) When the Metropolitan Corporation, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the money so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. R.S.O. 1970, c. 295, s. 226.

Offence for neglect of officer to carry out by-law

**231.** Any officer of the Metropolitan Corporation whose duty it is to carry into effect any of the provisions of a money by-law of the Metropolitan Corporation, who neglects or refuses to do so, under colour of a by-law illegally attempting to



repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 295, s. 227.

**232.**—(1) Within four weeks after the passing of a money by-law, the clerk of the Metropolitan Corporation may register a duplicate original or a copy of it, certified under his hand and the seal of the Metropolitan Corporation, in the Registry Office for the Registry Division of the City of Toronto.

Money  
by-laws  
may be  
registered

(2) Subject to section 61 of the *Ontario Municipal Board Act*, every by-law registered in accordance with subsection (1), or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under the *Drainage Act* or the *Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months, or one month, as the case may be.

Application  
to quash  
registered  
by-law, when  
to be made  
R.S.O. 1980,  
cc. 347, 126,  
250

(3) After the expiration of the period prescribed by subsection (2), if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Time when  
by-law to be  
valid and  
binding

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection (2), but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is, after the expiration of that period, valid and binding according to its terms.

Quashing  
part of  
by-law

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection (2), if it has not already expired, the by-law, or so much of it as is not quashed is valid and binding according to its terms.

Dismissal  
of appli-  
cation

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 224 (2), or a by-law where it appears on the

Illegal  
by-laws not  
validated

face of it that any of the provisions of subsection 227 (5) have not been substantially complied with.

Failure to register

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1970, c. 295, s. 228.

Debentures how sealed and executed

**233.**—(1) A debenture or other like instrument shall be sealed with the seal of the Metropolitan Corporation, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection (3), shall be signed by the chairman, or by some other person authorized by by-law of the Metropolitan Corporation to sign it, and by the treasurer.

Interest coupons

(2) A debenture may have attached to it interest coupons which shall be signed by the treasurer and his signature to them may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the Metropolitan Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered.

Mechanical reproduction of signatures

(3) The signature of the chairman, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and, if the debentures or other like instruments are countersigned in writing by a person authorized by by-law of the Metropolitan Corporation to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of mechanical reproduction

(4) The seal of the Metropolitan Corporation when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the chairman or such other person authorized by by-law to sign the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the chairman or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the Metropolitan Corporation.

Sufficiency of signatures

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signatures of the persons provided in this section if such persons had authority to sign and countersign as provided in this section either on the

date the Metropolitan Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. R.S.O. 1970, c. 295, s. 229.

**234.** Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the Metropolitan Corporation, the by-law and the debentures issued under it are valid and binding upon the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 230.

Debentures on which payment has been made for one year to be valid

**235.—**(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

Mode of transfer may be prescribed

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the.....  
.....  
of.....

the treasurer (or such other persons so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

Requirements as to endorsing certificate of ownership

(3) After a certificate of ownership has been endorsed, the debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in subsection (1), is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then

Transfer by entry in Debenture Registry Book

owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors. R.S.O. 1970, c. 295, s. 231.

When  
Debenture  
Registry  
Book may  
be  
maintained  
outside  
Canada

(4) Where debentures are payable in a currency other than that of Canada, the Metropolitan Council may provide that the Debenture Registry Book of the Metropolitan Corporation in respect of such debentures be maintained outside Canada by a person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the Metropolitan Council considers appropriate. 1975, c. 22, s. 7.

Replace-  
ment of lost  
debentures

**236.** Where a debenture is defaced, lost or destroyed, the Metropolitan Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1970, c. 295, s. 232.

Exchange of  
debentures

**237.**—(1) On request of the holder of any debenture issued after the 3rd day of April, 1957, by the Metropolitan Corporation, the treasurer of the Metropolitan Corporation may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount.

On request  
of sinking  
fund com-  
mittee

(2) On the request of the sinking fund committee, the treasurer of the Metropolitan Corporation may, as provided in this section, exchange debentures heretofore or hereafter issued by the Metropolitan Corporation.

New  
debentures  
of same  
force and  
effect as  
debentures  
surrendered

(3) Any new debenture mentioned in subsection (1) may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

Debentures  
surrendered  
for exchange  
to be  
cancelled

(4) The treasurer and auditor of the Metropolitan Corporation shall cancel and destroy all debentures surrendered for exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. R.S.O. 1970, c. 295, s. 233.

Application  
of proceeds  
of  
debentures

**238.**—(1) The moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures to the extent that such moneys are required for the purpose or purposes for which the debentures were issued, and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes.



(2) None of the moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the Metropolitan Corporation, an area municipality or a board of education in the Metropolitan Area. Idem

(3) Where on the sale of any debentures an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied, Surplus

- (a) if any such debentures are redeemable prior to maturity at the option of the Metropolitan Corporation, to redeem one or more of the debentures having the latest maturity date; or
- (b) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or
- (c) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

(4) Where on the sale of any debentures a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. R.S.O. 1970, c. 295, s. 234. Deficiency

**239.** Where real or personal property acquired out of moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures is disposed of by sale or otherwise, the net proceeds of such disposal shall be applied as an excess in accordance with subsection 238 (3) or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which, if raised by taxation, would be raised by taxation levied upon the assessment of the same class of ratepayers as was levied upon for the Use of proceeds of sale of asset acquired from proceeds of sale of debentures

principal and interest charges of the debentures issued in respect of the property disposed of or sold. R.S.O. 1970, c. 295, s. 235.

Tenders for  
debentures

**240.** When the Metropolitan Corporation intends to borrow money on debentures under this or any other Act, the Metropolitan Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1970, c. 295, s. 236.

Accounts,  
how to be  
kept

**241.**—(1) The Metropolitan Council shall,

- (a) keep a separate account of every debt;
- (b) where the whole of the debt is not payable in the current year, keep in respect thereof,
  - (i) an additional account for the interest, if any, and
  - (ii) an additional account for the sinking fund or the instalments of principal,distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and
- (c) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

Consoli-  
dated  
interest  
account

(2) The Metropolitan Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. R.S.O. 1970, c. 295, s. 237.

Application  
of surplus  
money

**242.** If in any year after paying the interest and appropriating the necessary sum in payment of the instalments there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or in payment of the principal. R.S.O. 1970, c. 295, s. 238.

**243.**—(1) If the Metropolitan Council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. <sup>Liability of members</sup>

(2) If the Metropolitan Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the Metropolitan Area. <sup>Action by ratepayer</sup>

(3) The members who vote for such application are disqualified from holding any municipal office for two years. <sup>Disqualification</sup>  
R.S.O. 1970, c. 295, s. 239.

**244.** When, by or under the authority of this Act, the Metropolitan Corporation is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the Metropolitan Corporation may, with the approval of the Municipal Board, <sup>Refinancing of debentures</sup>

- (a) cancel all such debentures that have not been sold and issue new debentures of the Metropolitan Corporation in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board, for the purposes for which such debentures were issued;
- (b) arrange with the area municipality for the redemption of all such debentures as are redeemable and issue new debentures of the Metropolitan Corporation to raise the moneys required for such redemption;
- (c) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the Metropolitan Corporation to raise the money required to complete such purchase. R.S.O. 1970, c. 295, s. 240.

## PART XVIII

### GENERAL

**245.**—(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113 and 116, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54, subparagraph ii of paragraph 125 of <sup>Application of</sup> R.S.O. 1980, c. 302

R.S.O. 1980,  
c. 302

section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation. 1979, c. 64, s. 19.

Erections,  
annexations  
and amalga-  
mations

(2) Sections 10 and 11 and, subject to subsection 150(8), section 14 of the *Municipal Act* do not apply to any area municipality except in relation to alterations of boundaries, within the Metropolitan Area, of area municipalities, which alterations, in the opinion of the Municipal Board, are of a minor nature.

Harbour  
commission

(3) Nothing in this Act alters or affects the powers of The Toronto Harbour Commissioners.

Nuisances

(4) The Metropolitan Corporation shall be deemed to be a local municipality for the purpose of paragraph 134 of section 210 of the *Municipal Act*.

Emergency  
measures  
civil  
defence

(5) By-laws may be passed by the Metropolitan Council,

(a) for the establishment and maintenance of emergency measures civil defence organizations in the Metropolitan Area; and

(b) for providing moneys for emergency measures and civil defence, for the purposes of emergency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work in the Metropolitan Area,

and, when a by-law passed under this subsection is in force in the Metropolitan Area, any by-law passed by the council of an area municipality under subclauses 209 (b) (ii) and (iii) of the *Municipal Act* has no effect.

Powers of  
Metropolitan  
Council re  
emergency  
measures

(6) When a by-law passed under clause (6) (a) is in force, the Metropolitan Council may pass by-laws,

(a) with the consent of the area municipality or local board concerned, for appointing heads of departments and alternates to be members of the Metropolitan Toronto Emergency Measures Organization or any committee thereof;

(b) with the consent of the area municipality or local board concerned, for training employees of the area municipality or local board in their functions under the Metropolitan Toronto Emergency Measures Organization;



(c) for appointing members of the Metropolitan Toronto Emergency Measures Organization, or of any committee thereof, to be in charge of such departments or utilities throughout the Metropolitan Area, as the by-law may provide, when an emergency has been proclaimed under the *War Measures Act* (Canada);

R.S.C. 1970,  
c. W-2

(d) for acquiring alternative headquarters for the metropolitan government outside the Metropolitan Area;

(e) for designating evacuation routes and empowering members of the Metropolitan Police Force to require persons to use such routes;

(f) for obtaining and distributing emergency materials, equipment and supplies; and

(g) for complying with any request of the Government of Canada or Ontario in the event of a nuclear attack.

(7) Notwithstanding any other provision in this Act, the Metropolitan Council may pass by-laws authorizing the head of the department concerned to grant such of the approvals and consents required by subsection 42 (2), subsection 58 (1), subsection 59 (2) and subsection 75 (2) as are designated in the by-law, and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted.  
R.S.O. 1970, c. 295, s. 241 (2-8).

Delegation  
of approvals  
or consents

(8) The Metropolitan Corporation shall be deemed to be a municipal corporation for the purposes of section 13 of the *Mortmain and Charitable Uses Act*. 1977, c. 37, s. 4 (2).

Application of  
R.S.O. 1980,  
c. 297, s. 13

(9) The Metropolitan Corporation is deemed to be and to have always been a municipality for the purposes of section 311 of the *Municipal Act*. 1979, c. 90, s. 5.

Purchasing  
or renting  
machinery  
R.S.O. 1980,  
c. 302

(10) Notwithstanding any provision in this or any other Act, the Metropolitan Council may, by by-law, authorize the head of a department or other official thereof, subject to such terms and conditions as the by-law specifies, to exercise the powers of the Metropolitan Council under paragraphs 101, 102, 103 and 104 of section 210, subsection 309 (3) and subsection 313 (2) and clauses 313 (4) (a) and (b) of the *Municipal Act*.

Delegation  
of powers of  
Metropolitan  
Council

R.S.O. 1980,  
c. 302

(11) Where any applicant, resident or ratepayer objects to the decision or approval of the department head or other official

Hearing by  
Metropolitan  
Council

described in subsection (10), the Metropolitan Council shall afford that person an opportunity to be heard and the Metropolitan Council may confirm, rescind, change, alter or vary any such decision or approval. 1980, c. 68, s. 3.

Expenses for  
diffusing  
information

**246.** The Metropolitan Council may expend in any year such sum as it may determine for the purpose of diffusing information respecting the advantages of the municipality as an industrial, business, educational, residential or vacation centre. 1976, c. 42, s. 19.

Expenses for  
entertaining  
guests and  
for travelling  
on civic  
business

**247.** The Metropolitan Council may expend in any year such sum as it may determine for the purposes set out in section 253 of the *Municipal Act*. 1977, c. 37, s. 5.

Agreement  
for  
emergency  
call system

**248.**—(1) The Metropolitan Corporation may enter into an agreement with the Ontario Motor League or any similar organization for the provision and maintenance of an emergency call system on any metropolitan road.

Terms and  
conditions

(2) An agreement entered into under subsection (1) may be for such period and on such terms and conditions as may be thought proper. R.S.O. 1970, c. 295, s. 243.

Assumption  
of costs of  
fire boat

**249.** The Metropolitan Corporation may assume the whole or any part of the capital and operating costs of the fire boat and the marine fire boat station of the City of Toronto. R.S.O. 1970, c. 295, s. 245.

Undue noise  
from motor  
vehicles

**250.** The Metropolitan Corporation may pass by-laws prohibiting the driving or operating of motor vehicles in the Metropolitan Area that create undue noise and for the purposes of any such by-law may define the expressions motor vehicles and undue noise. R.S.O. 1970, c. 295, s. 246.

Payment of  
damages to  
employees

**251.** Where in an action or by the settlement of a claim arising out of an injury to an employee, including a member of the Metropolitan Police Force, or to any person deemed an employee for the purposes of the *Workmen's Compensation Act* the Metropolitan Corporation recovers damages from a third person, such damages or any portion thereof may be paid to such employee or person or, in the event of his death, to one or more of his dependants upon such terms and conditions as the Metropolitan Corporation may impose. R.S.O. 1970, c. 295, s. 247; 1971, c. 80, s. 6.

R.S.O. 1980,  
c. 539

Investiga-  
tion by  
county judge  
of charges of  
malfeasance

**252.**—(1) Where the Metropolitan Council passes a resolution requesting a judge of the county court of the Judicial District

of York, or a judge of the county court of a judicial district adjoining the Judicial District of York, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the Metropolitan Council, or an officer or employee of the Metropolitan Corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the Metropolitan Corporation, or to inquire into or concerning any matter connected with the good government of the Metropolitan Corporation or the conduct of any part of its public business, including any business conducted by a local board of the Metropolitan Corporation, the judge shall make the inquiry and for that purpose has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act, and he shall, with all convenient speed, report to the Metropolitan Council the result of the inquiry and the evidence taken. R.S.O. 1970, c. 295, s. 248 (1); 1971, c. 49, s. 18. R.S.O. 1980, c. 411

(2) The judge shall be paid by the Metropolitan Corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under the *Judicature Act*. Fees payable to judge  
R.S.O. 1980, c. 223

(3) The Metropolitan Council may engage and pay counsel to represent the Metropolitan Corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the Metropolitan Corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. R.S.O. 1970, c. 295, s. 248 (2, 3). Engaging counsel

**253.**—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission to inquire into the affairs of the Metropolitan Corporation or a local board thereof, and any matter connected therewith, and the commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 295, s. 249 (1); 1971, c. 49, s. 18. Commission of inquiry

(2) A commission may be recommended at the instance of the Ministry, or upon the request in writing of not less than one-third of the members of the Metropolitan Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein. R.S.O. 1970, c. 295, s. 249 (2); 1972, c. 1, s. 1. When commission may issue

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the Expenses of commission

commissioner, shall be fixed and certified by the Minister and are subject to such division between the Metropolitan Corporation and the Province as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 295, s. 249 (3).

Entry on  
highways,  
etc.

**254.** The Metropolitan Corporation for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes, sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. R.S.O. 1970, c. 295, s. 250.

Agreements  
re services

**255.** The Metropolitan Corporation and any area municipality may enter into agreements for the use within any part of the Metropolitan Area of the services of their respective officers, employees and equipment. R.S.O. 1970, c. 295, s. 251.

Joint  
liability  
insurance

**256.** The Metropolitan Corporation and one or more area municipalities may enter into agreements for obtaining insurance protecting the Metropolitan Corporation, the area municipalities or any of them, their respective local boards, the members of their respective councils and local boards, and officers and employees of such municipal corporations and local boards against risks that may involve loss or liability, and may establish and contribute to a fund in connection with such insurance on such terms and conditions as may be agreed. 1979, c. 90, s. 6.

Application  
of  
R.S.O. 1980,  
c. 31

**257.**—(1) For the purposes of paragraph 9 of section 3 and section 26 of the *Assessment Act*, the Metropolitan Corporation shall be deemed to be a municipality.

Metropolitan  
Corporation  
and area  
municipalities not  
deemed  
tenants

(2) For the purposes of paragraph 9 of section 3 of the *Assessment Act*, where property belonging to the Metropolitan Corporation is occupied by an area municipality or where property belonging to an area municipality is occupied by the Metropolitan Corporation or another area municipality, the occupant shall be deemed not to be a tenant or lessee, whether rent is paid for such occupation or not.

Interpre-  
tation

(3) In subsection (2), "Metropolitan Corporation" and "area municipality" include a local board thereof. R.S.O. 1970, c. 295, s. 252.

Executions  
against  
Metropolitan  
Corporation

**258.**—(1) An execution against the Metropolitan Corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following:



1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the Metropolitan Corporation, or leave such copy at the office or dwelling place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.
2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the Metropolitan Council for general purposes are apportioned among the area municipalities, determine the portion of the amount mentioned in the statement that shall be levied against and in each area municipality.
3. The sheriff shall then in like manner as rates are struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution and in determining such amount he may make such addition to the same as the sheriff considers sufficient to cover its share of the interest up to the time when the rate will probably be available and his own fees and poundage.
4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality, and shall annex to the precept the roll of such rate, and shall by the precept, after reciting the writ and that the Metropolitan Corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect of the general annual rates.
5. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. *vs.* The Municipality of Metropolitan Toronto" (adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the

time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.

6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

Functions  
of clerk,  
assessors and  
collectors

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1970, c. 295, s. 253.

Conditional  
powers

**259.** The Lieutenant Governor in Council, upon the recommendation of the Municipal Board, may authorize the Metropolitan Corporation to do all such acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the intent and purposes of this Act. R.S.O. 1970, c. 295, s. 254.

Conflict  
with other  
Acts

**260.** The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails. R.S.O. 1970, c. 295, s. 255.

Areas re  
hydro  
R.S.O. 1980,  
cc. 384, 423

**261.**—(1) Notwithstanding anything in the *Power Corporation Act* or in the *Public Utilities Act* or in any other special or general Act, the whole of the Township of Scarborough, the whole of the City of North York and the whole of the Township of Etobicoke shall each be deemed to be an area established under subsection 70 (1) of *The Power Commission Act*, being chapter 300 of the Revised Statutes of Ontario, 1960, and The Public Utilities Commission of the Township of Scarborough, The Hydro-Electric Commission of the City of North York and The Hydro-Electric Commission of the Township of Etobicoke shall each be deemed to have been established for the whole of the said respective areas.

Assent of  
electors

(2) If any of such corporations desire to enter into a contract with Ontario Hydro for the supply of electrical power or energy for the use of the municipality and inhabitants thereof, the assent of the municipal electors is not necessary.

Application of  
R.S.O. 1980,  
c. 384,  
Part II

(3) Subject to this section and where not inconsistent therewith, Part II of the *Power Corporation Act* shall be deemed

to apply to each of such commissions and areas. R.S.O. 1970, c. 295, s. 256; 1973, c. 57, s. 19.

**262.**—(1) The Metropolitan Corporation or an area municipality or the Metropolitan Corporation and one or more area municipalities,

Municipal  
buildings

(a) may acquire land for the purposes of constructing municipal buildings; and

(b) may construct municipal buildings for the use of the Metropolitan Corporation or the Metropolitan Corporation and one or more area municipalities.

(2) Section 125 of the *Municipal Act* applies with necessary modifications to any joint undertaking under this section. R.S.O. 1970, c. 295, s. 257.

Application  
of  
R.S.O. 1980,  
c. 302

**263.**—(1) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of paragraphs 55 and 56 of section 208 of the *Municipal Act*.

Municipal  
parking  
lots

(2) The Metropolitan Corporation and The Corporation of the City of Toronto may enter into an agreement to provide for the operation by The Parking Authority of Toronto of any or all of the parking lots of the Metropolitan Corporation or the parking authority established by the Metropolitan Corporation. R.S.O. 1970, c. 295, s. 258.

Agreements  
authorized

**264.** For the purposes of section 109 of the *Highway Traffic Act*, the boroughs of East York, Etobicoke, Scarborough and York shall be deemed to be cities. R.S.O. 1970, c. 295, s. 259.

Boroughs  
deemed  
cities under  
R.S.O. 1980,  
c. 198, s. 109

## FORM 1

(Section 6 (4) )

I,....., having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

R.S.O. 1970, c. 295, Form 1.

## FORM 2

(Section 6 (4) )

## DECLARATION OF QUALIFICATION BY CHAIRMAN

I,....., having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, declare that:

1. I am a British subject and am not a citizen or a subject of any foreign country.
2. I am of the full age of eighteen years.
3. I am not an officer, employee or servant of any area municipality or any local board of any area municipality.
4. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me, etc.

R.S.O. 1970, c. 295, Form 2; 1973, c. 48, s. 6.



## CHAPTER 315

### Negligence Act

#### 1. In this Act,

Interpre-  
tation

- (a) "action" includes a counterclaim;
- (b) "defendant" includes a plaintiff against whom a counterclaim is brought;
- (c) "plaintiff" includes a defendant who counterclaims.  
R.S.O. 1970, c. 296, s. 1.

**2.** Where damages have been caused or contributed to by the fault or neglect of two or more persons, the court shall determine the degree in which each of such persons is at fault or negligent, and, where two or more persons are found at fault or negligent, they are jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent. R.S.O. 1970, c. 296, s. 2 (1); 1977, c. 59, s. 1 (1).

Extent of  
liability,  
remedy  
over

**3.** A tortfeasor may recover contribution or indemnity from any other tortfeasor who is, or would if sued have been, liable in respect of the damage to any person suffering damage as a result of a tort by settling with the person suffering such damage, and thereafter commencing or continuing action against such other tortfeasor, in which event the tortfeasor settling the damage shall satisfy the court that the amount of the settlement was reasonable, and in the event that the court finds the amount of the settlement was excessive it may fix the amount at which the claim should have been settled. R.S.O. 1970, c. 296, s. 3.

Recovery  
as between  
tortfeasors

**4.** In any action for damages that is founded upon the fault or negligence of the defendant if fault or negligence is found on the part of the plaintiff that contributed to the damages, the court shall apportion the damages in proportion to the degree of fault or negligence found against the parties respectively. R.S.O. 1970, c. 296, s. 4.

Plaintiff  
guilty of  
contributory  
negligence

**5.** If it is not practicable to determine the respective degree of fault or negligence as between any parties to an

Where  
parties to  
be deemed  
equally at  
fault

action, such parties shall be deemed to be equally at fault or negligent. R.S.O. 1970, c. 296, s. 5.

**Adding  
parties**

**6.** Wherever it appears that a person not already a party to an action is or may be wholly or partly responsible for the damages claimed, such person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties. R.S.O. 1970, c. 296, s. 6.

**Jury to  
determine  
degrees of  
negligence  
of parties**

**7.** In any action tried with a jury, the degree of fault or negligence of the respective parties is a question of fact for the jury. R.S.O. 1970, c. 296, s. 7.

**When  
plaintiff may  
be liable for  
costs**

**8.** Where the damages are occasioned by the fault or negligence of more than one party, the court has power to direct that the plaintiff shall bear some portion of the costs if the circumstances render this just. R.S.O. 1970, c. 296, s. 8.

**Limitation  
of actions**

**9.** Where an action is commenced against a tortfeasor or where a tortfeasor settles with a person who has suffered damage as a result of a tort, within the period of limitation prescribed for the commencement of actions by any relevant statute, no proceedings for contribution or indemnity against another tortfeasor are defeated by the operation of any statute limiting the time for the commencement of action against such other tortfeasor provided,

- (a) such proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
- (b) there has been compliance with any statute requiring notice of claim against such tortfeasor. R.S.O. 1970, c. 296, s. 9.

## CHAPTER 316

### Niagara Escarpment Planning and Development Act

**1.** In this Act,

Interpre-  
tation

- (a) "Commission" means the Niagara Escarpment Commission;
- (b) "development" includes a change in the use of any land, building or structure;
- (c) "local plan" means an official plan approved by the Minister of Housing or by the Ontario Municipal Board under the *Planning Act*;
- (d) "Minister" means the Provincial Secretary for Resources Development;
- (e) "ministry" means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government;
- (f) "Niagara Escarpment Plan" means a plan, policy and program, or any part thereof, approved by the Lieutenant Governor in Council, covering the Niagara Escarpment Planning Area, or any part thereof defined in the Plan, designed to promote the optimum economic, social, environmental and physical condition of the Area, and consisting of the texts and maps describing the program and policy;
- (g) "Niagara Escarpment Planning Area" means the area of land in Ontario designated as such by the Minister under this Act;
- (h) "zoning by-law" means a by-law passed under section 39 of the *Planning Act* or any predecessor thereof and approved by the Ontario Municipal Board. 1973, c. 52, s. 1; 1975, c. 68, s. 1; 1976, c. 35, s. 1.

R.S.O. 1980,  
c. 379

**2.** The purpose of this Act is to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment. 1973, c. 52, s. 2.

Purpose  
of Act

Establish-  
ment of  
Niagara  
Escarpment  
Planning  
Area

**3.—**(1) The Minister may, by order, establish as the Niagara Escarpment Planning Area the area of land in Ontario defined in the order and the Minister may alter the boundaries of the Planning Area by amendment to the order. 1973, c. 52, s. 3 (1); 1974, c. 52, s. 1 (1).

Direction by  
Minister to  
prepare  
Niagara  
Escarpment  
Plan

(2) Where the Niagara Escarpment Planning Area has been established under subsection (1), the Minister shall include in the order a direction to the Commission that it carry out an investigation and survey of the environmental, physical, social and economic conditions in relation to the development of the Planning Area or any part thereof, and that there be prepared within a period of two years or such other period of time as the Minister in his order determines, a plan suitable for approval as the Niagara Escarpment Plan. 1973, c. 52, s. 3 (2).

Order or  
amending  
order  
to be laid  
before  
Assembly

(3) Where any order or amendment thereto is made under subsection (1), the Minister shall, on the day the order or amending order is made, or as soon thereafter as is practicable, lay the order or amending order before the Assembly if it is in session or, if not, at the commencement of the next ensuing session and the Assembly shall, by resolution, declare the order or amending order approved, revoked or varied. 1974, c. 52, s. 1 (2).

Advisory  
committees

**4.** The Minister shall establish two or more advisory committees, consisting of such persons as the Minister appoints, one of which will represent the municipalities in the Niagara Escarpment Planning Area in whole or in part and one of which will be broadly representative of the people of the Planning Area, to advise and make recommendations to the Minister, through the Commission, in respect of the preparation and implementation of the Niagara Escarpment Plan and to perform any other function given to them by the Minister. 1973, c. 52, s. 4.

Niagara  
Escarpment  
Commission  
continued

**5.—**(1) The commission known as the Niagara Escarpment Commission is continued and shall be composed of seventeen members appointed by the Lieutenant Governor in Council as follows:

1. Nine members shall be appointed as representative of the public at large.
2. Of the eight remaining members, one shall be appointed from a list containing the names of not less than three persons submitted by the county council or regional council, 'as the case may be, of each county and regional municipality whose jurisdiction includes any part of the Niagara Escarpment Planning Area.



(2) Each member of the Commission shall hold office for such period of time as the Lieutenant Governor in Council determines. Term of office

(3) No person is eligible to be included in a list of persons submitted under paragraph 2 of subsection (1) unless he is a member or employee of the council of a municipality whose jurisdiction includes a part of the Niagara Escarpment Planning Area. Eligibility

(4) The Commission shall be deemed to be established when a majority of the number of members has been appointed, and it may then proceed to carry out the functions conferred upon it under this Act, notwithstanding the remaining number of members has not been appointed. 1973, c. 52, s. 5 (1-4). When Commission deemed established

(5) The Lieutenant Governor in Council may designate one of the members appointed under paragraph 1 of subsection (1) to be chairman of the Commission and may designate the chairman as an employee and the Commission as an employer for the purpose of the *Ontario Municipal Employees Retirement System Act*. 1973, c. 52, s. 5 (5); 1976, c. 35, s. 2 (1). Chairman R.S.O. 1980, c. 348

(6) Nine members of the Commission constitute a quorum. Quorum

(7) Members of the Commission shall receive such salary and other remuneration as the Lieutenant Governor in Council from time to time determines. Remuneration

(8) Such officers, clerks and servants as are considered necessary from time to time for the purposes of the Commission may be appointed under the *Public Service Act*. Staff R.S.O. 1980, c. 418

(9) Subject to the approval of the Minister, the Commission may engage persons to provide professional, technical or other assistance to the Commission. Professional assistance

(10) In the performance of its functions, the Commission may be assisted by such persons in the public service of Ontario as the Minister designates for the purpose. 1973, c. 52, s. 5 (6-10). Seconding of staff to Commission

(11) The Commission is a body corporate without share capital. Commission is body corporate

(12) The *Corporations Act* does not apply to the Commission. 1976, c. 35, s. 2 (2). R.S.O. 1980, c. 95 not to apply

**6.** All expenditures, costs, charges and expenses incurred and payable in respect of the carrying out by the Commission of its functions, including the salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof, shall be paid out of the moneys appropriated therefor by the Legislature. 1973, c. 52, s. 6. Moneys

Consultation  
during  
preparation  
of plan

**7.** During the course of the preparation of the Niagara Escarpment Plan, the Commission shall consult with the minister, provincial secretary or other person having charge of any affected ministry and with the council of each municipality within or partly within the Niagara Escarpment Planning Area, with respect to the proposed contents of the Plan. 1973, c. 52, s. 7.

Objectives

**8.** In preparing the Niagara Escarpment Plan, the objectives to be sought by the Commission in the Niagara Escarpment Planning Area shall be,

- (a) to protect unique ecologic and historic areas;
- (b) to maintain and enhance the quality and character of natural streams and water supplies;
- (c) to provide adequate opportunities for outdoor recreation;
- (d) to maintain and enhance the open landscape character of the Niagara Escarpment in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;
- (e) to ensure that all new development is compatible with the purpose of this Act as expressed in section 2;
- (f) to provide for adequate public access to the Niagara Escarpment; and
- (g) to support municipalities within the Niagara Escarpment Planning Area in their exercise of the planning functions conferred upon them by the *Planning Act*. 1973, c. 52, s. 8.

R.S.O. 1980,  
c. 379

Contents of  
Plan

**9.** The Niagara Escarpment Plan may contain,

- (a) policies for the economic, social and physical development of the Niagara Escarpment Planning Area in respect of,
  - (i) the management of land and water resources,
  - (ii) the general distribution and density of population,
  - (iii) the general location of industry and commerce, the identification of major land use areas and

the provision of major parks and open space and the policies in regard to the acquisition of lands,

- (iv) the control of all forms of pollution of the natural environment,
  - (v) the general location and development of major servicing, communication and transportation systems,
  - (vi) the development and maintenance of educational, cultural, recreational, health and other social facilities, and
  - (vii) such other matters as are, in the opinion of the Minister, advisable;
- (b) policies relating to the financing and programming of public development projects and capital works;
- (c) policies to co-ordinate the planning and development programs of the various ministries for the Niagara Escarpment Planning Area;
- (d) policies to co-ordinate planning and development among municipalities within the Niagara Escarpment Planning Area;
- (e) policies designed to ensure compatibility of development by the private sector; and
- (f) such other policies as are, in the opinion of the Minister, advisable for the implementation of the Plan,

and shall contain such programs and policies as each minister, provincial secretary or other person having charge of a ministry desires to be incorporated in the Plan, in so far as the Commission considers it practicable. 1973, c. 52, s. 9.

**10.**—(1) During the course of preparation of the Niagara Escarpment Plan, the Commission shall,

- (a) furnish each local municipality within or partly within the Niagara Escarpment Planning Area with a copy of the proposed Plan and invite each such municipality to make comments thereon to the council of the county or regional municipality within which it is situate within such period of time, not being less than three months from the time the Plan is furnished to it, as is specified;

- (b) publish a notice in such newspapers having general circulation in any area that is within the Niagara Escarpment Planning Area as the Commission considers appropriate, notifying the public of the proposed Plan, indicating where a copy of the Plan together with the material used in the preparation thereof mentioned in subsection (5), can be examined and inviting the submission of comments thereon within such period of time, not being less than three months from the time the notice is first published, as is specified;
- (c) furnish copies of the proposed Plan to any advisory committee appointed under section 4 and invite any such committee to make comments thereon within such period of time, not being less than three months from the time the Plan is furnished to it as is specified; and
- (d) furnish a copy of the proposed Plan to each county and regional municipality within or partly within the Niagara Escarpment Planning Area and invite them, after giving consideration to the comments received from the local municipalities under clause (a), to make comments on the proposed Plan to the Commission within such period of time, not being less than four months from the time the Plan is furnished to them, as is specified. 1973, c. 52, s. 10 (1).

Hearing  
officer

(2) Prior to, upon or after the expiration of the time for the making of comments on the proposed Plan, the Commission shall appoint one or more hearing officers for the purpose of conducting one or more hearings, as the Minister may determine, within the Niagara Escarpment Planning Area or in the general proximity thereof for the purpose of receiving representations respecting the contents of the Plan by any person desiring to make representations and separate hearings may be conducted at different times and places in respect of different parts of the Niagara Escarpment Planning Area.

Notice of  
hearing

(3) A hearing officer shall fix the time and place for the hearing or hearings, as determined under subsection (2), and shall publish notice thereof in such newspapers having in his opinion general circulation in any area that is within the Niagara Escarpment Planning Area as he considers appropriate.

Time of  
hearing

(4) The time fixed for any hearing under subsection (3) shall be not sooner than three weeks after the first publication



of the notice of the hearing and not before the expiration of the time for making of comments on the proposed Plan. 1974, c. 52, s. 2 (1).

(5) At any such hearing the Commission, or any person appointed by the Commission, shall present the proposed Plan and the justification therefor and shall make available for public inspection research material, reports, plans and the like that were used in the preparation of such Plan and, subject to the rules of procedure adopted by the hearing officer for the conduct of the hearing, the persons presenting the Plan may be questioned on any aspect of the Plan by any interested person. 1973, c. 52, s. 10 (5); 1974, c. 52, s. 2 (2).

Procedure  
at hearing

(6) Not more than three months after the conclusion of the hearing or of the last hearing if more hearings than one are held or within such extended time as the Commission prescribes, the hearing officer conducting the hearing or hearings shall report to the Commission a summary of the representations made together with a report stating whether the Plan should be accepted, rejected or modified, giving his reasons therefor, and shall at the same time furnish the Minister with a copy of the report and separate reports shall be submitted for each part of the Niagara Escarpment Planning Area for which a hearing or hearings was held.

Report of  
hearing  
officer

(7) After giving consideration to the comments received and the report, or reports if there is more than one, of the hearing officer, the Commission shall submit the proposed Plan with its recommendations thereon to the Minister.

Submission  
of Plan to  
Minister

(8) A copy of the proposed Plan and the recommendations thereon as submitted to the Minister, together with a copy of the report, or reports if there is more than one, of the hearing officer, shall be made available in the office of the Minister, in the office of the clerk of each municipality, the whole or any part of which is within the Niagara Escarpment Planning Area, and in such other offices and locations as the Minister determines, for inspection by any person desiring to do so.

Inspection  
of proposed  
Plan and  
report

(9) After having received the proposed Plan from the Commission and after giving consideration to the recommendations of the Commission and the report, or reports if there is more than one, of the hearing officer, the Minister shall submit the proposed Plan with his recommendations thereon to the Lieutenant Governor in Council.

Submission  
of proposed  
Plan to  
Lieutenant  
Governor in  
Council

(10) If the recommendation of the Minister to the Lieutenant Governor in Council is other than that the report,

When report  
not  
approved

or reports if there is more than one, of the hearing officer, be approved, then the Minister shall give public notice to this effect, state his intentions and a period of twenty-one days allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. 1974, c. 52, s. 2 (3).

Approval of  
Plan by  
Lieutenant  
Governor in  
Council

(11) The Lieutenant Governor in Council may approve the Plan or may approve the Plan with such modifications as the Lieutenant Governor in Council considers desirable, and thereupon the Plan is the Niagara Escarpment Plan for the Niagara Escarpment Planning Area. 1973, c. 52, s. 10 (11).

Lodging of  
Plan

**11.**—(1) A copy of the Niagara Escarpment Plan and of every amendment or modification thereto certified by the Minister shall be lodged forthwith with the clerk of each municipality, all or part of which is within the Niagara Escarpment Planning Area.

Idem

(2) A copy of the Niagara Escarpment Plan and of every amendment or modification thereto certified by the Minister shall be lodged forthwith in every land registry office of lands within the Niagara Escarpment Planning Area, where it shall be made available to the public as a production. 1973, c. 52, s. 11.

Amendments  
to Plan

**12.**—(1) An amendment to the Niagara Escarpment Plan may be initiated by the Minister or by the Commission, and application may be made to the Commission by any person, ministry or municipality requesting an amendment to the Plan.

Approval of  
amendment  
to Plan by  
Lieutenant  
Governor in  
Council

(2) Where the Minister or the Commission initiates an amendment to the Niagara Escarpment Plan or, subject to subsection (3), where the Commission receives an application requesting an amendment to the Plan, the provisions of this Act relating to consultation, the submission of comments and the holding of hearings apply, with necessary modifications, to the consideration of the proposed amendment, following which the Minister shall submit the amendment with his recommendations thereon to the Lieutenant Governor in Council and the Lieutenant Governor in Council may refuse to approve the amendment or may approve it or may approve the amendment with such modifications as the Lieutenant Governor in Council considers desirable, and in the event an amendment is approved, the Plan as so amended is thereupon the Niagara Escarpment Plan for the Niagara Escarpment Planning Area.

(3) Where in the opinion of the Commission an application for an amendment is not made in good faith, or is frivolous or is made only for the purpose of delay, the Commission shall inform the Minister of its opinion and where the Minister concurs in that opinion the Minister shall inform the applicant in writing of his opinion and notify the applicant that unless he makes written representations thereon to the Minister within such time as the Minister specifies in the notice, not being less than fifteen days from the time the notice is given, the provisions of subsection (2) in respect of the consideration of the amendment shall not apply, and approval of the amendment shall be deemed to be refused.

(4) Where representations are made to the Minister under subsection (3), the Minister, after giving consideration thereto, shall inform the applicant in writing either that the Minister's opinion is confirmed and that approval of the amendment is deemed to be refused or that he has directed that consideration of the amendment be proceeded with in accordance with subsection (2). 1973, c. 52, s. 12.

**13.**—(1) Notwithstanding any other general or special Act, when the Niagara Escarpment Plan is in effect,

(a) no municipality or local board having jurisdiction in the Niagara Escarpment Planning Area, or in any part thereof, and no ministry, shall undertake any improvement of a structural nature or any other undertaking within the Area; and

(b) no municipality having jurisdiction in such Area shall pass a by-law for any purpose,

that is in conflict with the Niagara Escarpment Plan.

(2) The Minister, upon the application of the council of a municipality having jurisdiction in the Niagara Escarpment Planning Area, or in any part thereof, may, in writing, declare that a by-law, improvement or other undertaking of such municipality shall be deemed not to conflict with the Niagara Escarpment Plan, if the Minister is of the opinion that the by-law, improvement or undertaking conforms with the general intent and purpose of the Plan. 1973, c. 52, s. 13.

**14.** Notwithstanding any other general or special Act, where the Niagara Escarpment Plan is in effect and there is a conflict between any provision of the Plan and any provision of a local plan or any provision of a zoning by-law

covering any part of the Niagara Escarpment Planning Area, then the provision of the Niagara Escarpment Plan prevails. 1973, c. 52, s. 14.

Minister  
may require  
submission  
of proposals  
to resolve  
conflict

**15.**—(1) Where in the opinion of the Minister a local plan or a zoning by-law that covers any part of the Niagara Escarpment Planning Area is in conflict with the provisions of the Niagara Escarpment Plan, the Minister shall advise the council of the municipality that adopted the local plan or that passed the zoning by-law of the particulars wherein the local plan or zoning by-law conflicts with the Niagara Escarpment Plan and shall invite the municipality to submit, within such time as the Minister specifies, proposals for the resolution of the conflict.

Power of  
Minister  
to amend  
local plan

(2) Where the council of the municipality fails to submit proposals to resolve the conflict within the time specified by the Minister, or where after consultation with the Minister on such proposals the conflict cannot be resolved, and the Minister so notifies in writing the council of the municipality, the Minister may by order amend the local plan so as to make it conform to the Niagara Escarpment Plan, and the order when made shall have the same effect as though it were an amendment to the local plan made by the council of the municipality and approved by the Minister of Housing. 1973, c. 52, s. 15.

Minister  
may require  
adoption of  
local plan  
or passage of  
zoning by-law

**16.** Where the Niagara Escarpment Plan is in effect in a municipality or any part thereof and the municipality does not have a local plan in effect or has not passed a zoning by-law or by-laws covering the municipality or that part of the municipality covered by the Plan, the council of the municipality, upon being notified in writing by the Minister of that fact, shall, within such time as is specified in the notice, prepare and adopt a local plan or pass a zoning by-law or by-laws that conform to the Niagara Escarpment Plan and submit to the Minister of Housing the local plan for approval or submit to the Ontario Municipal Board the zoning by-law or by-laws for approval, as the case requires. 1973, c. 52, s. 16.

Review of  
Plan

**17.**—(1) Not later than five years from the day on which the Niagara Escarpment Plan comes into effect, the Minister shall cause a review of the Plan to be undertaken, and the provisions of this Act relating to consultation, the submission of comments and the holding of hearings apply, with necessary modifications to the review, following which the Minister shall submit to the Lieutenant Governor in Council a report on the review of the Plan with his recommendations thereon.



(2) The Lieutenant Governor in Council may confirm the Plan or may approve the Plan with such modifications as the Lieutenant Governor in Council considers desirable, and thereupon the confirmed Plan or the modified Plan is the Niagara Escarpment Plan for the Niagara Escarpment Planning Area.

Lieutenant Governor in Council may confirm Plan or approve modifications

(3) Subsections (1) and (2) apply with necessary modifications to the confirmed or modified Niagara Escarpment Plan, and so on at intervals of not greater than five years, to the end that the Plan shall be subject to continuing review and if desirable, modification, at such periodic intervals. 1973, c. 52, s. 17.

Continuing review of Plan

**18.**—(1) For the purposes of developing any feature of the Niagara Escarpment Plan, the Minister may, for and in the name of Her Majesty, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest therein within the Niagara Escarpment Planning Area and sell, lease or otherwise dispose of any such land or interest therein.

Power to acquire land

R.S.O. 1980, c. 148

(2) The Lieutenant Governor in Council may designate any minister of the Crown in respect of any land acquired under subsection (1), and thereupon the minister so designated may, for the purpose of developing any feature of the Niagara Escarpment Plan,

Power of designated minister

(a) clear, grade or otherwise prepare the land for development or may construct, repair or improve buildings, works and facilities thereon; or

(b) sell, lease or otherwise dispose of any of such land or interest therein. 1973, c. 52, s. 18.

**19.** Where a municipality is invited to submit proposals to the Minister under section 15 to resolve a conflict between a local plan or zoning by-law and the Niagara Escarpment Plan or is required under section 16 to prepare and adopt a local plan or pass a zoning by-law or by-laws, the Minister may, out of the moneys appropriated therefor by the Legislature, make grants to any such municipality towards the costs of preparing such proposals, plans or by-laws or towards those expenditures incurred in preparing local plans and zoning by-laws, which are rendered invalid by the Niagara Escarpment Plan. 1973, c. 52, s. 19.

Grants

**20.** When the Niagara Escarpment Plan is in effect, the Minister may, out of the moneys appropriated therefor by the Legislature, provide financial assistance to any person,

Financial assistance

organization or corporation, including a municipal corporation, undertaking any policy or program that implements the Plan. 1973, c. 52, s. 20.

Transfer of  
Commission  
functions

**21.**—(1) Where, in the opinion of the Lieutenant Governor in Council, the Niagara Escarpment Plan has been substantially completed for any part of the Niagara Escarpment Planning Area, the Lieutenant Governor in Council may, by order, and subject to such terms and conditions as he considers appropriate, transfer any of the functions of the Commission to the council of a regional municipality or the council of a county.

Limitation

(2) No order shall be made under subsection (1) except upon application made to the Lieutenant Governor in Council by the council of the regional municipality or county, and every such application shall include a statement of the administrative procedures intended to be followed in the exercise of such functions. 1973, c. 52, s. 21.

Regulations

**22.** The Minister may make regulations designating any area or areas of land within the Niagara Escarpment Planning Area as an area of development control. 1974, c. 52, s. 3, *part*.

Inter-  
pretation

**23.**—(1) In this section and in section 24, subsections 25 (1), (3) to (9) and (11) and (12) and section 26, “Minister” means the Minister of Housing. 1974, c. 52, s. 3, *part*.

Regulations

(2) The Minister may make regulations,

(a) providing that where an area of development control is designated, such zoning by-laws and such orders of the Minister made under section 35 of the *Planning Act*, or any part thereof, as are designated in the regulation, cease to have effect in the area or in any defined part thereof provided that where land is removed from an area of development control such land is thereupon subject again to the aforementioned by-laws or orders or parts thereof, as the case may be, unless in the meantime such by-laws or orders or parts thereof have been repealed or revoked;

(b) providing for the issuance of development permits and prescribing terms and conditions of permits;

(c) providing for the exemption of any class or classes of development within any development area from the requirement of obtaining a development permit;

(d) prescribing the form of application for a development permit. 1974, c. 52, s. 3, *part*; 1976, c. 35, s. 3.

R.S.O. 1980,  
c. 379

**24.**—(1) Notwithstanding any other general or special Act, where an area of development control is established by regulation made under section 22, no person shall undertake any development in the area unless such development is exempt under the regulations or unless a development permit is issued by the Minister in respect of the development, or where the Minister has under section 25 delegated his authority to the Commission or to a county or to a regional municipality or to a city outside a regional municipality, a development permit is issued by the Commission or by the county or regional municipality, or city, as the case may be. 1976, c. 35, s. 4.

(2) The Minister may, where he issues a development permit under subsection (1), attach such terms and conditions thereto as he considers desirable.

(3) No building permit or other permit relating to development shall be issued in respect of any land, building or structure within an area of development control, unless a development permit has been issued under this Act relating to such land, building or structure, and no such building or other permit shall be issued that does not conform to the development permit.

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(5) Where any person undertakes any development that is in contravention of subsection (1), the Minister may order such person to demolish any building or structure erected in connection with the development or to restore the site to the condition it was in prior to the undertaking of the development, or both, within such time as the order specifies.

(6) Where a person to whom an order is directed under subsection (5) fails to comply with the order within the time specified in it, the Minister may cause the necessary work to be done and charge such person with the cost thereof, which cost may be recovered with costs, as a debt due to Her Majesty, in any court of competent jurisdiction.

(7) Where the Minister has delegated his authority under section 25, the body to which the authority is delegated has, in lieu of the Minister, all the powers and rights of the Minister under subsections (5) and (6). 1973, c. 52, s. 23 (2-7).

**25.**—(1) Subject to subsection (2), the Minister may in writing, and subject to such conditions as he considers appropriate, delegate to the Commission, or to a county or

regional municipality or to a city outside a regional municipality having jurisdiction in the Niagara Escarpment Planning Area, or any part thereof, authority to issue development permits. 1973, c. 52, s. 24 (1).

Limitation  
on  
delegation

(2) No delegation shall be made under subsection (1) to a county or a regional municipality or a city, except where the county or regional municipality or city on application therefor, has been designated by order of the Minister as a municipality to which may be delegated the authority to issue development permits under subsection (1), and every such application shall include a statement of the organizational structure to be established and the administrative procedures intended to be followed. 1974, c. 52, s. 4.

Withdrawal  
of  
delegation

(3) The Minister may in writing withdraw any delegation made under subsection (1) where, in his opinion, it is in the public interest to do so.

Commission,  
etc., power  
of decision

(4) Where the Minister has delegated his authority under subsection (1), the Commission or the council of the county or regional municipality or city, as the case may be, on receiving an application for a development permit and, after giving consideration to the merits of the application, may make a decision to issue the development permit or to refuse to issue the permit or to issue the permit subject to such terms and conditions as it considers desirable.

Notification  
of decision

(5) The Commission, or a county or regional municipality or city to whom the Minister has delegated his authority under subsection (1), shall by regular or registered mail cause a copy of the decision made by it on any application for a development permit to be mailed to the Minister, to the applicant for the permit and to all assessed owners of land lying within 400 feet of the land that is the subject of the application and every copy of such decision shall include a notice specifying that any person receiving a copy of the decision, other than the Minister, may, within fourteen days of the mailing of it, appeal in writing to the Minister against the decision.

Hearing  
officer

(6) Where the Minister receives a copy of a decision under subsection (5) he may, within fourteen days of the mailing of it, request the Lieutenant Governor in Council to appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the decision.

Application

(7) Where the Lieutenant Governor in Council appoints a hearing officer at the request of the Minister under subsection (6), the provisions of subsections (10), (11) and (12) apply with necessary modifications and any reference in those subsec-



tions to the Minister shall be deemed to be a reference to the Lieutenant Governor in Council.

(8) Where the Minister receives one or more notices of appeal under subsection (5) he shall appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the decision. Hearing officer, appointment by Minister

(9) Unless within the time specified in subsection (5), the Minister receives one or more notices of appeal or unless the Minister has under subsection (6) requested the appointment of a hearing officer, the decision of the Commission or of the council of the county or regional municipality or city, as the case may be, shall be deemed to be confirmed. Confirmation of decision

(10) The officer appointed to inquire under subsection (8) shall fix a time and place for a hearing and shall send by regular or registered mail written notice thereof to each person to whom notice of the decision was sent under subsection (5). Time of hearing

(11) After the conclusion of the hearing, the officer appointed shall report to the Minister a summary of the representations made, together with his opinion on the merits of the decision. Report

(12) After giving consideration to the report of the officer, the Minister may confirm the decision or he may vary the decision or make any other decision that in his opinion ought to have been made and the decision of the Minister under this section is final. 1973, c. 52, s. 24 (3-12). Power of Minister to confirm, etc., decision

**26.**—(1) Where the Minister has not delegated his authority under section 25 and he receives an application for a development permit the Minister shall, by personal service or by regular or registered mail, cause a written notice of the application, together with a brief statement of the nature of the application, to be delivered or mailed to all assessed owners of land lying within 400 feet of the land that is the subject of the application and every such notice shall specify the time within which any person receiving it may file with the Minister written notice of his objection to the issuance of a development permit. 1973, c. 52, s. 25 (1). Notice of application

(2) Subject to subsection (7), unless within the time specified in the notice referred to in subsection (1) a notice objecting to the issuance of a development permit is filed with the Minister, he may issue the development permit or he may refuse to issue the permit or he may issue the permit subject to such terms and conditions as he considers advisable. Minister may issue, etc., permit

Hearing  
officer,  
appointment  
by Minister

(3) Where a notice of objection to the issuance of a development permit is filed with the Minister within the time specified in the notice referred to in subsection (1), the Minister shall appoint an officer for the purpose of conducting a hearing at which representations may be made respecting the issuance of the development permit.

Time of  
hearing

(4) The officer appointed to inquire under subsection (3) shall fix a time and place for a hearing and shall send by regular or registered mail written notice thereof to the applicant for the development permit and to each person to whom notice of the application was sent under subsection (1).

Report

(5) After the conclusion of the hearing, the officer appointed shall report to the Minister a summary of the representations made together with his opinion on the merits of the application for the development permit.

Minister  
may issue,  
etc., permit

(6) After giving consideration to the report of the officer appointed to inquire into the matter, the Minister may issue the development permit or he may refuse to issue the permit or he may issue the permit subject to such terms and conditions as he considers advisable.

Hearing  
officer,  
appointment  
by Minister

(7) The Minister where he considers it desirable may, and at the request of the applicant for the development permit made at the time of submitting his application to the Minister shall, appoint an officer for the purpose of conducting a hearing into the matter, and where the Minister does so the provisions of subsections (4), (5) and (6) apply with necessary modifications.

Decision  
final

(8) The decision of the Minister made under this section is final. 1973, c. 52, s. 25 (2-8).

Subs. (1),  
amended

(9) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "400 feet" in the seventh line and inserting in lieu thereof "120 metres". 1978, c. 87, s. 58.

Agreement  
for fixed  
assessment

**27.—**(1) Where the use of any land within the Niagara Escarpment Planning Area is not in conformity with the use designated for such land in the Niagara Escarpment Plan or in any local plan covering such land, and the assessment of such land is increased because of such designation, the local municipality in which the land is situate and the owner of the land may, with the approval of the Minister, enter into an agreement providing for a fixed assessment for the land reflecting the use to which the land is being put, to apply

to taxation for general, school and special purposes, but not to apply to taxation for local improvements.

(2) Every such agreement shall be for such term of years <sup>Term of agreement</sup> not exceeding three as the Minister approves and the Minister may, in granting his approval, attach such terms and conditions thereto as he considers appropriate.

(3) Where a parcel of land has a fixed assessment under <sup>Procedure</sup> subsection (1),

- (a) the land shall be assessed in each year as if it did not <sup>assessment</sup> have a fixed assessment ;
- (b) the treasurer of the local municipality shall calculate <sup>taxes</sup> each year what the taxes would have been on the land if it did not have a fixed assessment ;
- (c) the treasurer shall keep a record of the difference <sup>record</sup> between the taxes paid each year and the taxes that would have been paid if the land did not have a fixed assessment and shall debit the land with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon on the aggregate amount of the debit on such date.

(4) The Minister may, out of the moneys appropriated <sup>Payment to municipality</sup> therefor by the Legislature, pay in each year to a local municipality in respect of which an agreement made under subsection (1) is in force, an amount of money equal to the difference in the taxes paid pursuant to the agreement and the taxes that would have been paid if the land covered by the agreement did not have a fixed assessment.

(5) Where a local municipality receives an amount of money <sup>Apportionment</sup> under subsection (4), the council of the local municipality shall apportion the amount to each body in the same manner as taxes would have been apportioned if taxes had been levied in the normal manner on the assessment in accordance with clause (3) (a).

(6) Where the land or a part thereof that is subject to an <sup>When agreement terminated</sup> agreement under subsection (1) ceases to be put to the use that was the basis for determining the fixed assessment, the agreement is thereupon terminated with respect to the land or such part thereof.

Registration  
of agreement

(7) Any agreement entered into under subsection (1) may be registered against the land affected by the agreement and when registered such agreement runs with the land and the provisions thereof are binding upon and enure to the benefit of the owner of the land and, subject to the provisions of the *Registry Act*, any and all subsequent owners of the land.

R.S.O. 1980,  
c. 445

Termination  
of agreement,  
as to all  
lands

(8) Where an agreement is for any reason terminated in respect of the whole of the land, the owner shall pay to the local municipality the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (c).

as to part  
of lands

(9) Where an agreement is for any reason terminated in respect of a part of the land, the owner shall pay to the local municipality that portion of the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (c), that is attributable to the portion of the land in respect of which the agreement is terminated.

Payment to  
Minister

(10) Where a local municipality receives a payment under subsection (8) or (9), the treasurer of the municipality shall forthwith pay the amount of money received, including the amount of debited interest, to the Minister.

Termination  
of agreement  
by owner

(11) An agreement may be terminated on the 31st day of December in any year upon the owner of the land that is the subject of the agreement giving six months notice of such termination in writing to the municipality.

Apportion-  
ment

(12) For the purposes of an apportionment required under any Act, the assessment used as the basis for such apportionment shall include the assessment determined under clause (3) (a). 1973, c. 52, s. 28.



## CHAPTER 317

## Niagara Parks Act

## 1. In this Act,

Interpre-  
tation

(a) "Commission" means The Niagara Parks Commission, a corporation constituted under *The Queen Victoria Niagara Falls Park Act, 1887*, and taking its present name under *The Niagara Parks Act, 1927*; <sup>1887, c. 13</sup> <sup>1927, c. 24</sup>

(b) "Minister" means the Minister of Natural Resources or such other member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;

(c) "Parks" means Queen Victoria Park, Queenston Heights Park, Niagara River Parkways, Butlers' Burying Ground, Drummond Hill Burying Ground and Lundy's Lane Battle Field and Cemetery and all other land heretofore or hereafter vested in or placed under the control of the Commission, including roads and boulevards and any interest in land and land covered with water. R.S.O. 1970, c. 298, s. 1, O. Reg. 171/72.

2. The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 298, s. 2. <sup>Administration of Act</sup>

3.—(1) The Commission is continued as a corporation with the objects, powers and duties prescribed in this Act. R.S.O. 1970, c. 298, s. 3 (1). <sup>Commission continued</sup>

(2) The Commission shall be composed of not fewer than ten and not more than twelve members appointed by the Lieutenant Governor in Council of whom, <sup>Composition of Commission</sup>

(a) not fewer than six and not more than eight members shall be appointed for the terms prescribed in subsection (3);

(b) one member shall be a member of the council of The Regional Municipality of Niagara and shall be appointed annually upon the recommendation of such council;

- (c) one member shall be a member of the council of the Town of Fort Erie and shall be appointed annually upon the recommendation of such council;
- (d) one member shall be a member of the council of the City of Niagara Falls and shall be appointed annually upon the recommendation of such council; and
- (e) one member shall be a member of the council of the Town of Niagara-on-the-Lake and shall be appointed annually upon the recommendation of such council. 1971, c. 97, s. 1.

Terms  
of office

(3) Of the persons first appointed under clause 2 (a),

- (a) at least two members shall be appointed for a term of one year;
- (b) at least two members shall be appointed for a term of two years; and
- (c) at least two members shall be appointed for a term of three years,

and, as the term of any such member expires, the appointment to fill the vacancy shall be for a term of three years and a member whose term expires is eligible for reappointment.

Chairman  
and vice-  
chairman

(4) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one of the members as vice-chairman.

Vacancies

(5) Where a vacancy occurs in an appointment under subsection (2), the vacancy may be filled for the remainder of the unexpired term in the same manner as the appointment.

Remunera-  
tion

(6) The Lieutenant Governor in Council may determine the annual remuneration to be paid to the chairman and vice-chairman of the Commission and such remuneration at a per diem rate for the other members of the Commission as is considered advisable.

Members of  
assembly  
R.S.O. 1980,  
c. 236

(7) Notwithstanding the *Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and is entitled to act as such without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly. R.S.O. 1970, c. 298, s. 3 (3-7).

4. It is the duty of the Commission to manage, control and develop the Parks and to further these objects the Commission may, <sup>General powers and duties</sup>

- (a) lay out, plant and enclose the Parks;
- (b) construct and pull down buildings and structures;
- (c) construct and operate incline railways, aerial cars, lifts and works to assist the public in reaching and viewing the points of interest in the Parks;
- (d) construct or acquire by purchase, lease or otherwise and operate bridges over the Niagara River, and for that purpose enter into agreement with any authority having control of the territory beyond the International Boundary required for any such bridge, or enter into agreement for the joint construction and operation by the Commission and such authority of any such bridge;
- (e) construct and operate golf courses, bowling greens and swimming pools;
- (f) construct and operate restaurants, refreshment booths and stands for the sale of souvenirs and other wares;
- (g) construct and maintain toilet and other facilities for the convenience of the public;
- (h) acquire and operate buses and other vehicles for use in connection with the Parks;
- (i) acquire and operate boats for use in connection with the Parks;
- (j) operate a school for the training of apprentice gardeners;
- (k) make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (l) appoint such auditors, officers, clerks, keepers, gardeners and other persons as may be required;
- (m) receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein;

- (*n*) make grants of money and provide services for educational purposes or for any purpose that may serve to publicize or foster interest in the Parks; and
- (*o*) make such by-laws, rules and orders as may be considered expedient for the constitution of the Commission and the administration of its affairs and do such other things as may be necessary or advisable to properly exercise its powers and discharge its duties. R.S.O. 1970, c. 298, s. 4.

Issue of  
securities

**5.**—(1) With the approval of the Lieutenant Governor in Council, the Commission may borrow money to meet its indebtedness accruing due or for purchasing or otherwise acquiring real or personal property, or making improvements, or for any other purpose of the Commission, and may issue bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed, and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such interest as the Commission may consider proper.

Guaranteeing  
securities

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for any of the purposes mentioned in subsection (1). R.S.O. 1970, c. 298, s. 5.

Foreshore  
and river  
bed

**6.** The Lieutenant Governor in Council may, subject to such conditions as he may consider proper, vest in the Commission any portion of the foreshore or bed of the Niagara River or land covered with water in the Niagara River that lies in front of the Parks and that is the property of the Crown in right of Ontario. R.S.O. 1970, c. 298, s. 6.

Acquisition  
of land

**7.** Subject to the approval of the Lieutenant Governor in Council, the Commission may,

- (*a*) acquire by purchase, lease or otherwise;
- (*b*) without the consent of the owner, enter upon, take and expropriate; and
- (*c*) sell or otherwise dispose of,

any land or any interest in land. R.S.O. 1970, c. 298, s. 7.



**8.**—(1) The Commission in the exercise of its powers to take land compulsorily has all the powers conferred by the *Ministry of Government Services Act* on the Minister of Government Services in relation to a public work, and in the application of this section where the words “the Minister”, “the Ministry” or “the Crown” appear in such Act they mean, where the context permits, the Commission. R.S.O. 1970, c. 298, s. 8 (1); 1972, c. 1, s. 1; 1973, c. 2, s. 2.

(2) The Commission shall proceed in the manner provided by the *Expropriations Act*. R.S.O. 1970, c. 298, s. 8 (2).

**9.**—(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may vest any highway in any municipality in the Commission and thereafter the Commission has exclusive jurisdiction over it.

(2) The Commission and the corporation of any municipality may enter into agreement as to the acquisition by the Commission or by the Municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

(3) Every agreement entered into under subsection (2) shall provide that the cost of any lands acquired pursuant thereto and all compensation payable in respect of such acquisition or for injurious affection to lands by reason of any work undertaken under any such agreement shall be borne and paid solely by the corporation of the municipality entering into the agreement. R.S.O. 1970, c. 298, s. 9.

**10.**—(1) The Lieutenant Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled access highway. R.S.O. 1970, c. 298, s. 10 (1).

(2) The Lieutenant Governor in Council may, in respect of any portion of any such highway, road, boulevard or parkway so designated, make any regulation that he may make in respect of controlled access highways under the *Public Transportation and Highway Improvement Act*. R.S.O. 1970, c. 298, s. 10 (2); 1971, c. 61, s. 1.

**11.**—(1) The Commission may enter into agreement with the corporation of any municipality that adjoins or is within five kilometres of the lands of the Commission as to

R.S.O. 1980,  
c. 250

any work of any of the characters or descriptions mentioned in the *Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission is not liable in any way for assessment under the *Local Improvement Act*, for the cost of any such work, whether the lands abut directly on the work or otherwise, and the lands remain exempt from assessment and taxation. R.S.O. 1970, c. 298, s. 11 (1); 1978, c. 87, s. 27 (1).

Assent of  
electors not  
required

(2) It is not necessary to submit any agreement entered into under this section for the assent of the electors of the municipality, nor is it necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. R.S.O. 1970, c. 298, s. 11 (2).

Application  
of  
R.S.O. 1980,  
c. 425

**12.** The *Public Vehicles Act* applies to the highways and public places of the Commission except that as to such highways and public places the Commission shall be deemed to be substituted for the Ministry of Transportation and Communications and for the Lieutenant Governor in Council, and the licence fees and tolls and the penalties imposed under that Act shall be payable to the Commission. R.S.O. 1970, c. 298, s. 12; 1972, c. 1, s. 100 (2).

Collection  
of water  
revenues  
and rentals

**13.—(1)** Subject to any order of the Lieutenant Governor in Council, the Commission may continue to collect the revenues and rentals payable or collectable under the several agreements made between the Commission and the Canadian Niagara Power Company, Limited, the Ontario Power Company, the Electrical Development Company of Ontario, Limited and Ontario Hydro.

Agreements  
with com-  
panies as to  
developing  
power

(2) The Commission, with the approval of the Lieutenant Governor in Council, may,

- (a) enter into agreement with any person to take water from the Niagara River or from the Niagara and Welland Rivers, at points within the Parks, for the purpose of enabling such persons to generate power within the Parks, and to conduct and discharge the water through and across the Parks or otherwise in such manner, for such rental, and upon such terms and conditions as may be embodied in the agreement, and any such agreement may include provisions as to the removal or demolition

of any buildings or structures and the re-erection of the same, or the erection of other buildings or structures; and

- (b) renegotiate any existing agreement for the development of power from the Niagara River.

(3) No agreement entered into or renegotiated under subsection (2) becomes operative until it is confirmed by resolution of the Assembly. <sup>Confirmation of agreement</sup> R.S.O. 1970, c. 298, s. 13.

**14.** With the approval of the Lieutenant Governor in Council, the Commission, upon terms to be agreed upon, <sup>Bridges over Niagara River</sup> may grant any rights over or in respect of lands of the Commission that may be required for the purpose of building any new bridge over the Niagara River or of confirming the present occupation of land by any presently existing bridge company, but nothing in this section authorizes the granting of any such rights over or in respect of Queen Victoria Park. R.S.O. 1970, c. 298, s. 14.

**15.**—(1) All moneys received by the Commission shall <sup>Application of revenue</sup> be applied in the discharge of its duties and obligations.

(2) Any surplus moneys shall, on the order of the Lieutenant Governor in Council, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. <sup>Surplus money</sup> R.S.O. 1970, c. 298, s. 15.

**16.** The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. <sup>Books of account</sup> R.S.O. 1970, c. 298, s. 16.

**17.** Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by the *Public Officers Act*. <sup>Security by officers</sup> R.S.O. 1970, c. 298, s. 17. <sup>R.S.O. 1980, c. 415</sup>

**18.** The books and records of the Commission shall be examined annually by the Provincial Auditor or such other auditor as may be designated by the Lieutenant Governor in Council. <sup>Audit</sup> R.S.O. 1970, c. 298, s. 18.

Annual  
report

**19.**—(1) The Commission shall after the close of each fiscal year of the Commission file with the Minister an annual report setting forth the revenue and expenditure of the year as shown by the audited statement and such other matters as may appear to be of public interest in relation to the Parks or as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 298, s. 19 (1); 1972, c. 1, s. 85 (1).

to be laid  
before  
Assembly

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. R.S.O. 1970, c. 298, s. 19 (2); 1972, c. 1, s. 85 (2).

Offence

**20.** Every person who contravenes any provision of the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500. 1978, c. 91, s. 1.

Regulations

**21.**—(1) The Commission, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of Parks lands and works, vehicles, boats, golf courses, bowling greens, swimming pools and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs,



sign boards and other advertising devices in the Parks or within 400 metres of any part thereof;

- (g) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;
- (h) licensing, regulating and governing guides and prescribing fees for such licences;
- (i) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof. R.S.O. 1970, c. 298, s. 20 (1); 1978, c. 87, s. 27 (2); 1978, c. 91, s. 2.

(2) Any offence against any regulation made under this Act is punishable under the *Provincial Offences Act* and the fines for any such offence are payable to the Commission. R.S.O. 1970, c. 298, s. 20 (2). Offences  
R.S.O. 1980,  
c. 400

**22.** Nothing in this Act authorizes the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act confers the right to remove any body there interred. R.S.O. 1970, c. 298, s. 21. Rights of  
interment  
not affected



## CHAPTER 318

### Non-resident Agricultural Land Interests Registration Act

**1.—(1)** In this Act,

Interpre-  
tation

(a) “agricultural land” means land that,

(i) under a by-law passed under section 39 of the *Planning Act* or under an order made under section 35 of that Act, is zoned for agricultural use,  
or

R.S.O. 1980,  
c. 379

(ii) is assessed under the *Assessment Act* or is actually used as farm or agricultural land or as an orchard;

R.S.O. 1980,  
c. 31

(b) “conveyance” includes any instrument or writing by which a legal or equitable title to land is conveyed, and, without limiting the generality of the foregoing, includes a mortgage, charge, a final order of foreclosure under a mortgage or charge and an agreement of purchase and sale and “conveyed” has a corresponding meaning;

(c) “Director” means the Director appointed under this Act;

(d) “non-resident corporation” means a corporation, regardless of the jurisdiction in which it was formed or organized, that,

(i) is controlled directly or indirectly by one or more non-resident persons,

(ii) has issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to one or more non-resident persons,

(iii) has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to any one non-resident person,

(iv) has a board of directors, one-half or more of which is composed of non-resident persons, or

- (v) in the case of a corporation without share capital, has a membership, one-half or more of which is composed of non-resident persons;

(e) “non-resident person” means,

- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
- (ii) a non-resident corporation,
- (iii) a partnership, syndicate, association or other organization of which one-half or more of the members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, association or organization are beneficially owned by non-resident persons, or
- (iv) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iii) hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom;

(f) “prescribed” means prescribed by the regulations made under this Act.

Ordinarily  
resident  
defined

(2) For the purpose of clause (1) (e), an individual shall be considered to be ordinarily resident in Canada if, at the time the expression is being applied,

- (a) he has sojourned in Canada during the next preceding twenty-four months for a period of, or periods the aggregate of which is, 366 days or more;
- (b) he is a member of the Canadian Forces required to reside outside Canada;
- (c) he is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (d) he is performing services in a country other than Canada under an international development assistance program



of the Government of Canada that is prescribed for the purposes of paragraph 250 (1) (d) of the *Income Tax Act* (Canada), and resided in Canada at any time in the three-month period preceding the day on which such services commenced; or

R.S.C. 1952,  
c. 148

- (e) he resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (b), (c) or (d). 1980, c. 26, s. 1.

**2.—(1)** Every non-resident person who acquires an interest in agricultural land in Ontario on or after the 1st day of December, 1980, whether by way of a conveyance, purchase of shares of a corporation that has such an interest, or otherwise, that results in the person acquiring, holding or maintaining an interest in an aggregate of ten or more hectares of agricultural land, shall file with the Director a registration report in the prescribed form.

Registration  
report

(2) Every non-resident person who has acquired an interest in agricultural land in Ontario before the 1st day of December, 1980, and who, on that day, retains an interest in ten or more hectares thereof, shall file with the Director a registration report in the prescribed form.

Idem

(3) Every non-resident person who disposes of or conveys away any interest in agricultural land in respect of the acquisition or holding of which a registration report was required to be filed under subsection (1) or (2) shall file with the Director a cancellation notice in the prescribed form.

Cancellation  
notice

(4) Every non-resident person referred to in subsection (1) or (3) shall file the registration report or cancellation notice, as the case may be, within ninety days after the date of acquisition or disposal.

Time for  
filing  
report or  
notice

(5) Every non-resident person referred to in subsection (2) shall file the registration report within one year after the 1st day of December, 1980.

Time for  
filing  
report

(6) Where a non-resident person files a registration report under this section respecting any agricultural land and the registration report or material filed therewith,

Where  
registration  
report not  
required

- (a) provides information on other non-resident persons who are also required to file a registration report respecting that agricultural land; and
- (b) the information supplied under clause (a) is equivalent in nature and extent to the information required of a non-resident person filing a registration report,

those other non-resident persons are not required to file a separate registration report respecting that agricultural land. 1980, c. 26, s. 2.

Where  
resident  
deemed to  
be non-  
resident

**3.**—(1) For the purposes of this Act, where a person who is a resident of Canada has acquired or acquires an interest in agricultural land that, if held or acquired by a non-resident person, would be subject to this Act and he knowingly holds that interest on behalf of a non-resident person, by agreement or otherwise, he shall be deemed to be a non-resident person in respect of that interest.

Where  
resident  
becomes  
non-  
resident

(2) For the purposes of this Act, where a person who is a resident of Canada holds an interest in agricultural land that, if held by a non-resident person, would be subject to this Act and he subsequently becomes a non-resident person he shall be deemed to have received a conveyance of that interest as a non-resident person on the date that he became a non-resident person. 1980, c. 26, s. 3.

Contents of  
report and  
notice

**4.** Every registration report and cancellation notice shall set forth the prescribed information. 1980, c. 26, s. 4.

Expiry of  
registration  
report

**5.** Every registration report expires five years after the day on which it is filed and, where a non-resident person continues to hold an interest referred to in such a registration report, he shall file with the Director a new registration report within thirty days of the expiry of the earlier registration report. 1980, c. 26, s. 5.

Appointment  
of Director,  
inspectors

**6.** The Minister of Agriculture and Food may appoint a Director of a branch of the Ministry of Agriculture and Food to administer and enforce this Act and may appoint inspectors whose duties are to carry out the provisions of this Act and the regulations. 1980, c. 26, s. 6.

Obstructing  
inspector

**7.**—(1) No person shall hinder or obstruct an inspector in the course of his duties or furnish an inspector with false information or refuse to permit an inspector to carry out his duties or refuse to furnish him with the prescribed documents, records and information.

Certification  
of photocopy

(2) Where a book, record, document or extract that has been furnished to an inspector has been photocopied by the inspector, a photocopy purporting to be certified by the inspector to be a copy is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 1980, c. 26, s. 7.

False  
information

**8.** No person shall furnish false information in any registration report or cancellation notice filed under this Act. 1980, c. 26, s. 8.

**9.**—(1) Every person who fails to file a registration report <sup>Offence</sup> under section 2 or 5 and every director or officer of a corporation who knowingly concurs in such failure to file a registration report is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

(2) Every person who contravenes any other provision of this <sup>Idem</sup> Act or any provision of the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1980, c. 26, s. 9.

**10.** In any proceedings brought alleging an offence under this <sup>Burden of proof</sup> Act, the burden of proof is upon the person charged to establish that he is not a non-resident person. 1980, c. 26, s. 10.

**11.** The Lieutenant Governor in Council may make regula- <sup>Regulations</sup> tions,

- (a) prescribing the form of a registration report and the information that must be contained therein;
- (b) prescribing the form of a cancellation notice and the information that must be contained therein;
- (c) prescribing the powers and duties of inspectors;
- (d) prescribing the documents, records and information that must be furnished to inspectors;
- (e) prescribing forms other than those mentioned in clauses (a) and (b) and providing for their use. 1980, c. 26, s. 11.





## CHAPTER 319

## Notaries Act

**1.** Subject to section 2, the Lieutenant Governor, upon <sup>Appoint-  
ments</sup> the recommendation of the Attorney General, may by commission appoint such persons as he thinks fit as notaries public for Ontario. R.S.O. 1970, c. 300, s. 1; 1972, c. 1, s. 9 (7).

**2.—**(1) Any person, other than a barrister and solicitor, <sup>Examination</sup> being a Canadian citizen, who is desirous of being appointed or reappointed a notary public, is subject to examination or re-examination, as the case may be, in regard to his qualification for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as may be appointed in that behalf by the Lieutenant Governor in Council, and no such person shall be appointed or reappointed a notary public without a certificate from such judge, or such other person, that he has examined or re-examined the applicant and finds him qualified for the office, and that in his opinion a notary public is needed for the public convenience in the place where the applicant resides and intends to carry on business.

(2) Where a person, other than a barrister and solicitor, <sup>Restriction</sup> is appointed or reappointed a notary public, restrictions may be imposed in the commission limiting the territory and cases in which such person may use and exercise his powers. R.S.O. 1970, c. 300, s. 2.

**3.** Subject to subsection 2 (2), a notary public has and may use <sup>Powers</sup> and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter-parties and other mercantile transactions in Ontario, and also of attesting all commercial instruments that may be brought before him for public protestation, and otherwise of acting as is usual in the office of notary public, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the calling of notary public. R.S.O. 1970, c. 300, s. 3.

**4.—**(1) A notary public has and may exercise the powers <sup>Power to  
take  
affidavits</sup> of a commissioner for taking affidavits in Ontario.

Need not  
affix seal on  
affidavits,  
etc.

(2) Where a notary public is authorized by any Act of the Legislature to administer oaths or to take affidavits or declarations in Ontario, it is not necessary to the validity of any such oath, affidavit or declaration that he affix his seal thereto. R.S.O. 1970, c. 300, s. 4.

Expiry of  
future  
commissions

**5.—**(1) The commission of every notary public, other than a barrister and solicitor, who is appointed on or after the 1st day of July, 1963, expires three years after the day on which he was appointed.

Reappoint-  
ment

(2) Any person whose commission expires under subsection (1) may be reappointed from time to time for a period of three years upon the production of a fresh certificate under section 2.

Indication  
of expiry of  
commissions

(3) Every notary public to whom this section applies shall indicate, by means of a stamp approved by the Inspector of Legal Offices and affixed under his signature, the date upon which his commission expires and such limitations as to territory and purposes as are contained in the commission. R.S.O. 1970, c. 300, s. 5.

Offences,  
notaries

**6.—**(1) Every notary public who as such exercises any power, performs any function or acts in any way that is not authorized by this Act or that he is not otherwise by law entitled to exercise, perform or do is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$500.

Idem

(2) Every notary public who fails to comply with any restriction imposed in his commission under subsection 2 (2) or who fails to comply with subsection 5 (3) is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$500.

Idem,  
other  
persons

(3) Every person who carries on business as a notary public or who holds himself out as such or who, not being otherwise authorized by law, performs any function of a notary public without a subsisting commission under this Act or any predecessor of this Act is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$1,000. R.S.O. 1970, c. 300, s. 6.

Suspension

**7.—**(1) Where a notary public who is a member of The Law Society of Upper Canada ceases for any reason to be a member of the Society or his membership in the Society is in abeyance, his appointment as a notary public

is *ipso facto* suspended until such time as his membership in the Society is restored or is no longer in abeyance. R.S.O. 1970, c. 300, s. 7 (1).

(2) The Lieutenant Governor may revoke the commission of a notary public upon his conviction for an offence against this Act or for any other conduct that in the opinion of the Lieutenant Governor, upon the recommendation of the Attorney General, renders him unfit to hold the office of notary public. R.S.O. 1970, c. 300, s. 7 (2); 1972, c. 1, s. 9 (7). Revocation  
of commis-  
sion upon  
conviction  
for offence

**8.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the fee to be paid upon appointment or reappointment as a notary public or any class thereof;
- (b) prescribing the fee that the judge or other person examining is entitled to receive from a person examined or re-examined under section 2;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 300, s. 8.





CHAPTER 320

Nursing Homes Act

1. In this Act,

Interpre-  
tation

- (a) “Board” means the Nursing Homes Review Board referred to in section 6;
- (b) “Director” means the Director appointed under subsection 2 (2);
- (c) “inspector” means an inspector appointed under section 15;
- (d) “licensee” means a person who is the holder of a licence under this Act;
- (e) “Minister” means the Minister of Health;
- (f) “Ministry” means the Ministry of Health;
- (g) “nursing home” means any premises maintained and operated for persons requiring nursing care or in which such care is provided to two or more unrelated persons, but does not include any premises falling under the jurisdiction of,

- |   |                        |
|---|------------------------|
| (i) the <i>Charitable Institutions Act</i> ,            | R.S.O. 1980,<br>c. 64  |
| (ii) the <i>Children’s Mental Health Services Act</i> , | R.S.O. 1980,<br>c. 69  |
| (iii) the <i>Children’s Residential Services Act</i> ,  | R.S.O. 1980,<br>c. 71  |
| (iv) the <i>Homes for the Aged and Rest Homes Act</i> , | R.S.O. 1980,<br>c. 203 |
| (v) the <i>Mental Hospitals Act</i> ,                   | R.S.O. 1980,<br>c. 263 |
| (vi) the <i>Private Hospitals Act</i> , or              | R.S.O. 1980,<br>c. 389 |

R.S.O. 1980,  
c. 410

(vii) the *Public Hospitals Act*;

(h) "regulations" means the regulations made under this Act;

(i) "resident" means a person admitted to and lodged in a nursing home. 1972, c. 11, s. 1, *revised*.

Administra-  
tion of Act

**2.**—(1) The Minister is responsible for the administration and enforcement of this Act and the regulations.

Director

(2) The Minister shall appoint an officer of the Ministry to be the Director for the purposes of this Act. 1972, c. 11, s. 2.

Licence  
required

**3.** No person shall establish, operate or maintain a nursing home except under the authority of a licence issued by the Director under this Act. 1972, c. 11, s. 3.

Issuance  
of licence

**4.**—(1) Subject to subsection (2), any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a nursing home and who meets the requirements of this Act and the regulations and who pays the prescribed fee is entitled to be issued the licence. 1972, c. 11, s. 4 (1).

Where  
proposal  
not in  
public  
interest

(2) Notwithstanding subsection (1), where an application is made for a licence under this Act and the Minister states in writing to the Director that it is not in the public interest to grant a licence to establish, operate or maintain the nursing home in the area where the applicant proposes to establish, operate or maintain the nursing home, section 7 shall not apply and the Director shall not issue a licence to the applicant and shall give written notice to the applicant of the refusal and of the Minister's statement.

Idem

(3) Notwithstanding subsection (1), where an application is made for a licence under this Act and the Minister states in writing to the Director that it is not in the public interest to grant a licence to establish, operate or maintain the nursing home with a total bed capacity greater than the total bed capacity set out in the Minister's statement, section 7 shall not apply and where the Director issues a licence to the applicant upon such application the Director shall give written notice to the applicant of the Minister's statement and the licence shall be limited to a total bed capacity not greater than that set out in the Minister's statement.

(4) In considering under subsection (2) whether it is in the public interest to grant a licence to establish, operate or maintain a nursing home in an area and in considering under subsection (3) whether it is in the public interest to fix the maximum total bed capacity for which the Director may issue a licence to the applicant, the Minister shall take into account, <sup>Matters to be considered by Minister</sup>

- (a) the licensed nursing home bed capacity that exists,
  - (i) in the area, or
  - (ii) in the area and any other area;
- (b) the health facilities other than facilities for nursing care that are available,
  - (i) in the area, or
  - (ii) in the area and any other area;
- (c) the number of applicants for nursing care,
  - (i) in the area, or
  - (ii) in the area and any other area;
- (d) the predictable continuing demand for nursing home facilities,
  - (i) in the area, or
  - (ii) in the area and any other area;
- (e) the funds available to provide continuing extended care in nursing homes in Ontario. 1973, c. 38, s. 1 (1).

(5) Subject to section 7, the Director may refuse to issue <sup>Grounds for refusal</sup> a licence where in his opinion,

- (a) the proposed nursing home or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the home will not be operated in accordance with the law and with honesty and integrity; or

- (c) the applicant is not competent to operate a nursing home in a responsible manner in accordance with this Act and the regulations or is not in a position to furnish or provide the required services. 1972, c. 11, s. 4 (2); 1973, c. 38, s. 1 (2).

Expiration  
of licence

- (6) A licence expires twelve months after the date of its issue or renewal.

Not  
transferable

- (7) A licence is not transferable.

Notice of  
changes

- (8) Where a licensee is a corporation, the licensee shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation. 1972, c. 11, s. 4 (3-5).

Revocation  
and refusal  
to renew

**5.** The Director may revoke or refuse to renew a nursing home licence where,

- (a) the licensee is in contravention of this Act or the regulations or of any other Act or regulation that applies to the nursing home;
- (b) there is a breach of a condition of the licence;
- (c) any person has made a false statement in the application for the licence or renewal thereof, or in any report, document or other information required to be furnished by this Act or the regulations or by any other Act or regulation that applies to the nursing home;
- (d) where the licensee is a corporation a change in its officers or directors would, if it were an applicant, afford grounds for refusing to issue a licence under clause 4 (5) (b); or
- (e) the nursing home is being operated in a manner that is prejudicial to the health, safety or welfare of the residents cared for therein. 1972, c. 11, s. 5.

Nursing  
Homes  
Review  
Board

**6.—(1)** The Nursing Homes Review Board is continued and shall be composed of not fewer than three and not more than seven members who shall be appointed by the Lieutenant Governor in Council, one of whom shall be appointed as chairman.



(2) A majority of the members of the Board constitute a <sup>Quorum</sup> quorum and is sufficient for the exercise of all the jurisdiction and powers of the Board.

(3) The members of the Board who are not employed in the <sup>Remunera-</sup> public service of Ontario shall be paid such remuneration <sup>tion</sup> and expenses as are determined by the Lieutenant Governor in Council.

(4) No action or other proceeding for damages shall be <sup>Protection</sup> instituted against the Director, any member of the Board, <sup>from personal</sup> or anyone acting under the authority of such Director or <sup>liability</sup> member, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. 1972, c. 11, s. 6.

7.—(1) Where the Director proposes to refuse to issue or <sup>Notice of</sup> renew or to revoke a licence under this Act, he shall serve <sup>proposal to</sup> notice of his proposal, together with written reasons therefor, <sup>revoke or</sup> on the applicant or licensee. <sup>refuse to</sup> <sup>renew</sup>

(2) A notice under subsection (1) shall inform the applicant <sup>Notice</sup> or licensee that he is entitled to a hearing by the Board if <sup>requiring</sup> he mails or delivers, within fifteen days after the notice under <sup>hearing</sup> subsection (1) is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

(3) Where an applicant or licensee does not require a hearing <sup>Powers of</sup> by the Board in accordance with subsection (2), the Director <sup>Director</sup> may carry out the proposal stated in his notice under sub- <sup>where no</sup> section (1). <sup>hearing</sup>

(4) Where an applicant or licensee requires a hearing by <sup>Powers of</sup> the Board in accordance with subsection (2), the Board shall <sup>Board where</sup> appoint a time for and hold the hearing and, on the applica- <sup>hearing</sup> tion of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

(5) The Board may extend the time for the giving of <sup>Extension</sup> notice requiring a hearing by an applicant or licensee under <sup>of time for</sup> <sup>requiring</sup> <sup>hearing</sup>

this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee following upon a hearing and that there are reasonable grounds for applying for the extension and the Board may give such directions as it considers proper consequent upon the extension.

Continuation  
of licence  
pending  
renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before the expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision. 1972, c. 11, s. 7.

Parties

8.—(1) The Director, the applicant or licensee who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

Notice of  
hearing

(2) Notice of a hearing under section 7 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination  
of docu-  
mentary  
evidence

(3) An applicant or licensee who is a party to proceedings under subsection (1) shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not  
to have taken  
part in  
investigation,  
etc.

(4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(6) The findings of fact of the Board following upon a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact  
R.S.O. 1980,  
c. 484

(7) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. Only members at hearing to participate in decision

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. 1972, c. 11, s. 8. Release of documentary evidence

**9.**—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court. Appeal to court

(2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1972, c. 11, s. 9. Powers of court on appeal

Service of  
notice

**10.** Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date. 1972, c. 11, s. 10.

Restraining  
order

**11.** The Minister may at any time during the course of the proceedings under sections 7 to 9 apply without notice to a judge of the High Court by originating notice of motion for an interim order authorizing the Director to occupy and operate the nursing home under section 12 pending the outcome of the proceedings, and the judge may issue the order where, in the opinion of the judge, it is necessary for the health, safety or welfare of the residents in the nursing home. 1972, c. 11, s. 11.

Removal  
of residents

**12.—(1)** Where the licensee's licence is revoked, and the revocation becomes final or where the nursing home is otherwise being operated without a licence, the residents or their legal representatives where the residents are unable so to do, shall arrange to vacate the premises as soon as it is practicable and the Director shall assist in finding alternative accommodation.

Interim  
management

R.S.O. 1980,  
c. 148

**(2)** For the purposes of arranging alternative accommodation under subsection (1), the Minister may, notwithstanding sections 25 and 41 of the *Expropriations Act*, immediately occupy and operate the nursing home or arrange for the nursing home to be occupied and operated by a person or organization designated by him, for a period not exceeding six months, but all the rights of the licensee under that Act, except the right to possession, are preserved.

## Records

**(3)** Where the licensee's licence is revoked, the licensee and the administrator shall hand over to the Minister, or a person designated by him, all the records that are in their possession or control and that pertain to the residents of the nursing home. 1972, c. 11, s. 12.

Extended  
care units

**13.—(1)** Every nursing home shall have an extended care unit consisting of such facilities, services and bed capacity for extended care as are prescribed by the regulations.



(2) Where, in the opinion of the Director, special circumstances warrant reduction in the facilities, services or bed capacity required in an extended care unit under subsection (1), the Director may, by order, authorize the reduction of the said facilities, services or bed capacity to such amount, for such times and under such conditions as are specified in the order. 1972, c. 11, s. 13.

Relief in  
special cases

**14.** No licensee shall demand or accept or cause or permit any person to demand or accept on his behalf payment in excess of,

Excessive  
charges  
prohibited

(a) for services that are insured services under the *Health Insurance Act*. R.S.O. 1980, c. 197

(i) the amount prescribed under that Act for the insured services, or

(ii) the amount prescribed by the regulations as co-payment for the insured services;

(b) for private accommodation in an extended care unit, the amount prescribed by the regulations; or

(c) for semi-private accommodation in an extended care unit, the amount prescribed by the regulations. 1973, c. 38, s. 2, *part*.

**15.** The Minister shall bring action to recover from a licensee any excess payment referred to in section 14 that is accepted by or on behalf of the licensee, with costs, by action in a court of competent jurisdiction and, upon such recovery, shall pay the amount of the excess payment recovered to the person from whom it was accepted by or on behalf of the licensee. 1973, c. 38, s. 2, *part*.

Recovery  
of excess  
payment

**16.—**(1) The Minister may appoint such inspectors as are necessary for the purposes of this Act and the regulations and such appointments shall be in writing.

Appointment  
of inspectors

(2) The Minister shall issue to every inspector a certificate of his appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request. 1972, c. 11, s. 15.

Certificate  
of  
appointment

**17.—**(1) An inspector may at any time enter upon the business premises of a nursing home to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Inspection

Idem

(2) Where an inspector has reasonable and probable grounds to believe that any premises are being used as a nursing home without being licensed under this Act, the inspector may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on inspection

(3) Upon an inspection under this section, the inspector,

(a) is entitled to free access to all books of account, documents, bank accounts, vouchers, correspondence and records, including medical and drug records, that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the inspector or withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

Admissibility of copies

(4) Any copy made as provided in subsection (3) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Disclosure to Minister

(5) Any record required to be kept under this Act or the regulations shall be made available to the Minister on request. 1972, c. 11, s. 16.

Use of appellations

**18.** No person shall use the terms "nursing home" or "extended care home" or words of like import in connection with any premises unless he is licensed under this Act. 1972, c. 11, s. 17.

Penalty

**19.** Any person who contravenes any provision of this Act or the regulations, except subsection 12 (1), is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 1972, c. 11, s. 18.

Regulations

**20.** The Lieutenant Governor in Council may make such regulations in respect of nursing homes as are considered necessary to carry out the purposes of this Act, and in particular,

- (a) defining the terms "intermediate nursing care", "nursing care" and "extended care" for purposes of this Act and the regulations;
- (b) governing the services, care, facilities and amenities that nursing homes shall provide and governing and prescribing the staff requirements and duties of staff in respect of the care and services that shall be provided residents;
- (c) respecting the assessment and classification of residents for the purpose of determining the level of care required by residents;
- (d) respecting extended care units and the facilities and services to be provided therein and respecting the facilities and services that are to be provided for intermediate nursing care;
- (e) prescribing the percentage of the licensed bed capacity of the nursing home that is to be set aside for extended care standard ward and private and semi-private accommodation and prescribing the percentage of the licensed bed capacity of the nursing home that is to be set aside for intermediate nursing care standard ward and private and semi-private accommodation;
- (f) governing the construction, establishment, location, safety, equipment, maintenance and repair of and additions or alterations to nursing homes and respecting the information, plans and other material that are to be furnished to the Director;
- (g) respecting the management and operation of nursing homes;
- (h) respecting the officers, staff and employees of nursing homes and prescribing their duties, responsibilities and qualifications for employment;
- (i) requiring the bonding of the chief administrators of nursing homes in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of bonds and the disposition of the proceeds;
- (j) requiring in-service training programs to be provided staff and employees;
- (k) prescribing the books, records and accounts that shall be kept by nursing homes;

- (l) requiring the accounts of nursing homes to be audited and requiring nursing homes to furnish such information or accounts as may be required by the Minister;
- (m) governing the reports and returns that shall be made to the Minister by licensees;
- (n) providing for the issuing of licences and prescribing the terms and conditions of licences and the fees payable therefor;
- (o) respecting and governing the admission, treatment, care, conduct, discipline and discharge of residents of nursing homes;
- (p) prescribing other duties of inspectors;
- (q) governing access to medical or drug records by specified persons for specified purposes;
- (r) prescribing the amounts that may be charged residents as co-payment with amounts payable under the *Health Insurance Act*;
- (s) prescribing the maximum amounts that may be charged residents in respect of private and semi-private accommodation;
- (t) regulating or prohibiting charges by nursing homes in respect of any amenity or facility required to be provided;
- (u) instituting a system for budgeting the annual expenditure of nursing homes and the payment by the Province of all or any part of such budget in lieu of amounts payable under the *Health Insurance Act*;
- (v) exempting designated nursing homes from specified provisions of this Act or the regulations;
- (w) prescribing forms for the purposes of this Act and providing for their use. 1972, c. 11, s. 19.



## CHAPTER 321

## Occupational Health and Safety Act

## 1. In this Act,

Interpre-  
tation

1. "committee" means a joint health and safety committee established under this Act;
2. "competent person" means a person who,
  - i. is qualified because of his knowledge, training and experience to organize the work and its performance,
  - ii. is familiar with the provisions of this Act and the regulations that apply to the work, and
  - iii. has knowledge of any potential or actual danger to health or safety in the work place;
3. "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project;
4. "constructor" means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer;
5. "Deputy Minister" means the Deputy Minister of Labour;
6. "designated substance" means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled;
7. "Director" means an inspector who is appointed under this Act as a Director of the Occupational Health and Safety Division of the Ministry;

R.S.O. 1980,  
c. 394

8. "employer" means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services;
9. "engineer of the Ministry" means a person who is employed by the Ministry and who is registered as a professional engineer or licensed as a professional engineer under the *Professional Engineers Act*;
10. "factory" means,
  - i. a building or place other than a mine, mining plant or place where homework is carried on, where,
    - A. any manufacturing process or assembling in connection with the manufacturing of any goods or products is carried on,
    - B. in preparing, inspecting, manufacturing, finishing, repairing, warehousing, cleaning or adapting for hire or sale any substance, article or thing, energy is,
      1. used to work any machinery or device, or
      2. modified in any manner,
    - C. any work is performed by way of trade or for the purposes of gain in or incidental to the making of any goods, substance, article or thing or part thereof,
    - D. any work is performed by way of trade or for the purposes of gain in or incidental to the altering, demolishing, repairing, maintaining, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, or
    - E. aircraft, locomotives or vehicles used for private or public transport are maintained,

- ii. a laundry including a laundry operated in conjunction with,
    - A. a public or private hospital,
    - B. a hotel, or
    - C. a public or private institution for religious, charitable or educational purposes, and
  - iii. a logging operation;
11. "health and safety representative" means a health and safety representative selected under this Act;
  12. "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof by a person for wages in premises occupied primarily as living accommodation;
  13. "industrial establishment" means an office building, factory, arena, shop or office, and any land, buildings and structures appertaining thereto;
  14. "inspector" means an inspector appointed for the purposes of this Act and includes a Director;
  15. "logging" means the operation of felling or trimming trees for commercial or industrial purposes and includes the measuring, storing, transporting or floating of logs and any such activities for the clearing of land;
  16. "mine" means any work or undertaking for the purpose of opening up, proving, removing or extracting any metallic or non-metallic mineral or mineral-bearing substance, rock, earth, clay, sand or gravel;
  17. "mining plant" means any roasting or smelting furnace, concentrator, mill or place used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance mentioned in paragraph 16;
  18. "Minister" means the Minister of Labour;

R.S.O. 1980,  
c. 539

19. "Ministry" means the Ministry of Labour;
20. "occupational illness" means a condition that results from exposure in a work place to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby and includes an industrial disease as defined by the *Workmen's Compensation Act*;
21. "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a work place, and a person who acts for or on behalf of an owner as his agent or delegate;
22. "prescribed" means prescribed by a regulation made under this Act;
23. "project" means a construction project, whether public or private, including,
  - i. the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof,
  - ii. mining development,
  - iii. the moving of a building or structure, and
  - iv. any work or undertaking, or any lands or appurtenances used in connection with construction;
24. "regulations" means the regulations made under this Act;
25. "shop" means a building, booth or stall or a part of such building, booth or stall where goods are handled, exposed or offered for sale or where services are offered for sale;
26. "supervisor" means a person who has charge of a work place or authority over a worker;



27. "trade union" means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place and includes an organization representing workers or persons to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such workers or persons; R.S.O. 1980,  
c. 228
28. "work place" means any land, premises, location or thing at, upon, in or near which a worker works;
29. "worker" means a person who performs work or supplies services for monetary compensation but does not include,
- i. an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program, or
  - ii. a patient who participates in a work or rehabilitation program in a psychiatric institution, mental health or retardation centre or home, or rehabilitation facility. 1978, c. 83, s. 1.

## PART I

### APPLICATION

**2.—**(1) This Act binds the Crown and applies to an employee in the service of the Crown or an agency, board, commission or corporation that exercises any function assigned or delegated to it by the Crown. Application  
to Crown

(2) Notwithstanding anything in any general or special Act, the provisions of this Act and the regulations prevail. Application  
of other  
Acts  
1978, c. 83, s. 2.

**3.—**(1) This Act does not apply to work performed by the owner or occupant or a servant of the owner or occupant to, in or about a private residence or the lands and appurtenances used in connection therewith. Application  
to private  
residences

(2) Except as shall be prescribed and subject to the conditions and limitations prescribed, this Act or a Part thereof does not apply to farming operations. Farming  
operations

Teachers,  
etc.

(3) Except as shall be prescribed and subject to the conditions and limitations prescribed, this Act or a Part thereof does not apply to,

R.S.O. 1980,  
c. 129

(a) a person who is employed as a teacher as defined in the *Education Act*; or

(b) a person who is employed as a member or teaching assistant of the academic staff of a university or a related institution. 1978, c. 83, s. 3.

## PART II

### ADMINISTRATION

Delegation  
of powers

4. Where under this Act or the regulations any power or duty is granted to or vested in the Minister or the Deputy Minister, the Minister or Deputy Minister may in writing delegate that power or duty from time to time to any officer or officers of the Ministry subject to such limitations, restrictions, conditions and requirements as the Minister or Deputy Minister may set out in the delegation. 1978, c. 83, s. 4.

Appoint-  
ment of  
inspectors  
and  
Directors

5.—(1) Such persons as may be necessary to administer and enforce this Act and the regulations may be appointed as inspectors by the Deputy Minister and the Deputy Minister may designate one or more of the inspectors as a Director or Directors.

Director  
may act as  
inspector

(2) A Director may exercise any of the powers or perform any of the duties of an inspector under this Act or the regulations. 1978, c. 83, s. 5.

Certificate  
of appoint-  
ment

6.—(1) The Deputy Minister shall issue a certificate of appointment, bearing his signature or a facsimile thereof, to every inspector.

Production  
of  
certificate

(2) Every inspector, in the exercise of any of his powers or duties under this Act, shall produce his certificate of appointment upon request. 1978, c. 83, s. 6.

Mandatory  
selection  
of health  
and safety  
representative

7.—(1) Where the number of workers at a project regularly exceeds twenty, the constructor shall cause the workers to select at least one health and safety representative from among the workers on the project who do not exercise managerial functions.

Order  
appointing  
health and  
safety  
representa-  
tives

(2) Where no committee has been established under section 8, or where the number of workers at a project does

not regularly exceed twenty, the Minister may, by order in writing, require a constructor or an employer to cause the selection of one or more health and safety representatives for a work place or a part or parts thereof from among the workers employed at the work place or in the part or parts thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representative or representatives.

(3) The Minister may from time to time give such directions as the Minister considers advisable concerning the carrying out of the functions of a health and safety representative. Idem

(4) In exercising the power conferred by subsection (2), the Minister shall consider the matters set out in subsection 8 (4). What Minister shall consider

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the work place, or the part or parts thereof, as the case may be, or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions. Selection of representatives

(6) A health and safety representative may inspect the physical condition of the work place or the part or parts thereof for which he has been selected, as the case may be, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection. Powers of representative

(7) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his findings thereon to the employer, the workers and the trade union or trade unions representing the workers. Idem

(8) Where a person is killed or critically injured at a work place from any cause, the health and safety representative may, subject to subsection 25 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his findings in writing to a Director. Notice of accident, inspection by representative

(9) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections (6) and (8) and the time so spent shall Entitlement to time from work

be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper.

Additional  
powers of  
certain  
health and  
safety  
representa-  
tives

(10) A health and safety representative or representatives of like nature appointed or selected under the provisions of a collective agreement or other agreement or arrangement between the constructor or the employer and the workers, has, in addition to his functions and powers under the provisions of the collective agreement or other agreement or arrangement the functions and powers conferred upon a health and safety representative by subsections (6), (7) and (8). 1978, c. 83, s. 7.

Application

8.—(1) Subject to subsection (3), this section does not apply,

- (a) to a constructor or an employer who undertakes to perform work or supply services on a project; or
- (b) to an employer in respect of those workers who work,
  - (i) in that part or those parts of a building used for office purposes,
  - (ii) in a shop where goods or services are sold or offered for sale to the public, except any part used as a factory,
  - (iii) in a building used for multiple residential accommodation,
  - (iv) in a library, museum or art gallery,
  - (v) in a restaurant, hotel, motel or premises for which a licence or permit has been issued under the *Liquor Licence Act* except that part used as a kitchen or laundry,
  - (vi) in a theatre or place of public entertainment, or
  - (vii) in premises occupied and used by a fraternal or social organization or a private club.

R.S.O. 1980,  
c. 244

Establishment  
of joint  
health and  
safety  
committees

(2) Subject to subsection (3), where,

- (a) twenty or more workers are regularly employed at a work place;
- (b) a regulation made in respect of a designated substance applies to a work place; or



(c) an order to an employer is in effect under section 20, the employer shall cause a joint health and safety committee to be established and maintained at the work place unless the Minister is satisfied that a committee of like nature or an arrangement, program or system in which the workers participate is, on the date this Act comes into force, established and maintained pursuant to a collective agreement or other agreement or arrangement and that such committee, arrangement, program or system provides benefits for the health and safety of the workers equal to, or greater than, the benefits to be derived under a committee established under this section.

(3) Notwithstanding subsections (1) and (2), the Minister may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a work place or a part thereof, and may, in such order, provide for the composition, practice and procedure of any committee so established.

Minister's  
order

(4) In exercising the power conferred by subsection (3), the Minister shall consider,

What  
Minister  
shall  
consider

- (a) the nature of the work being done;
- (b) the request of a constructor, an employer, a group of the workers or the trade union or trade unions representing the workers in a work place;
- (c) the frequency of illness or injury in the work place or in the industry of which the constructor or employer is a part;
- (d) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and
- (e) such other matters as the Minister considers advisable.

(5) A committee shall consist of at least two persons of whom at least half shall be workers who do not exercise managerial functions to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions.

Composi-  
tion of  
committee

(6) It is the function of a committee and it has power to,

Powers of  
committee

- (a) identify situations that may be a source of danger or hazard to workers;
- (b) make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;

- (c) recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers; and
- (d) obtain information from the constructor or employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

Minutes of  
proceed-  
ings

(7) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

Powers of  
designated  
member

(8) The members of a committee who represent workers shall designate one of the members representing workers to inspect the physical condition of the work place, not more often than once a month or at such intervals as a Director may direct, and it is the duty of the employer and the workers to afford that member such information and assistance as may be required for the purpose of carrying out the inspection.

Idem

(9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a work place from any cause and one of those members may, subject to subsection 25 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his findings to a Director and to the committee.

Posting of  
names and  
work  
locations

(10) A constructor or an employer required to establish a committee under this section shall post and keep posted at the work place the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

Meetings

(11) A committee shall meet at least once every three months at the work place and may be required to meet by order of the Minister.

Entitle-  
ment to  
time from  
work

(12) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee and to carry out his duties under subsections (8) and (9) and the time so spent shall be deemed to be work time for

which he shall be paid by his employer at his regular or premium rate as may be proper.

(13) Any committee of a like nature to a committee established under this section in existence in a work place under the provisions of a collective agreement or other agreement or arrangement between a constructor or an employer and the workers, has, in addition to its functions and powers under the provisions of the collective agreement or other agreement or arrangement, the functions and powers conferred upon a committee by this section.

Additional  
powers of  
certain  
committees

(14) Where a dispute arises as to the application of subsection (2), or the compliance or purported compliance therewith by an employer, the dispute shall be decided by the Minister after consulting the employer and the workers or the trade union or trade unions representing the workers. 1978, c. 83, s. 8.

Dispute  
resolution

9.—(1) For work places to which the *Workmen's Compensation Act* applies, the Workmen's Compensation Board, upon the request of an employer, a worker, committee, health and safety representative or trade union, shall send to the employer, and to the worker, committee, health and safety representative or trade union requesting the information an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the incidents of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

Summary  
to be  
furnished  
R.S.O. 1980,  
c. 539

(2) Upon receipt of the annual summary, the employer shall cause a copy thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers.

Posting of  
copy of  
summary

(3) A Director shall, in accordance with the objects and purposes of this Act, ensure that persons and organizations concerned with the purposes of this Act are provided with information and advice pertaining to its administration and to the protection of the occupational health and occupational safety of workers generally. 1978, c. 83, s. 9.

Director  
to provide  
information

10.—(1) There shall be a council to be known as the Advisory Council on Occupational Health and Occupational Safety composed of not fewer than twelve and not more than twenty members appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Advisory  
Council on  
Occupational  
Health and  
Occupational  
Safety

Term of  
office of  
members

(2) The members of the Advisory Council shall be appointed for such term as the Lieutenant Governor in Council determines and shall be representative of management, labour and technical or professional persons and the public who are concerned with and have knowledge of occupational health and occupational safety.

Chairman  
and vice-  
chairman

(3) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman of the Advisory Council from among the members appointed.

Vacancies

(4) The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Advisory Council.

Remunera-  
tion and  
expenses

(5) The remuneration and expenses of the members of the Advisory Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature.

Powers of  
Advisory  
Council

(6) The Advisory Council, with the approval of the Minister, may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum, and the conduct of meetings.

Idem

(7) The function of the Advisory Council is and it has power,

(a) to make recommendations to the Minister relating to programs of the Ministry in occupational health and occupational safety; and

(b) to advise the Minister on matters relating to occupational health and occupational safety which may be brought to its attention or be referred to it.

Annual  
report

(8) The Advisory Council shall file with the Minister not later than the 1st day of June in each year an annual report upon the affairs of the Advisory Council.

Idem

(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. 1978, c. 83, s. 10.

Advisory  
committees

**11.—**(1) The Minister may appoint committees, which are not committees as defined in paragraph 1 of section 1, or persons to assist or advise the Minister on any matter arising under this Act or to inquire into and report to the Minister on any matter that the Minister considers advisable.



(2) Any person appointed under subsection (1) who is not an officer in the public service of the Province of Ontario may be paid such remuneration and expenses as may be from time to time fixed by the Lieutenant Governor in Council. 1978, c. 83, s. 11.

Remuneration and expenses

**12.**—(1) The Lieutenant Governor in Council may fix an amount that shall be assessed and levied by the Workmen's Compensation Board upon employers in Schedules 1 and 2 under the *Workmen's Compensation Act* to defray the expenses of the administration of this Act and the regulations and such amount shall not exceed \$4,000,000 for the fiscal year in which this Act comes into force and shall be subject to increase in each subsequent fiscal year by a sum not exceeding 10 per cent of the amount fixed for the preceding fiscal year.

Assessment to defray expenses

R.S.O. 1980, c. 539

(2) The Workmen's Compensation Board shall add to the assessments and levies made under the *Workmen's Compensation Act* upon employers in Schedules 1 and 2 of that Act a sum calculated as a percentage of the assessments and levies and which percentage shall be determined as the proportion that the amount fixed under subsection (1) bears to the total sum that the Workmen's Compensation Board fixes and determines to be assessed for payment by employers in the said Schedules 1 and 2, and the *Workmen's Compensation Act* applies to such sum and to the collection and payment thereof in the same manner as to an assessment and levy made under that Act.

Method of collection

(3) The Workmen's Compensation Board shall collect the assessment and levy imposed under this section and shall pay the amounts so collected to the Treasurer of Ontario. 1978, c. 83, s. 12.

Idem

### PART III

#### DUTIES OF A CONSTRUCTOR, EMPLOYER, SUPERVISOR, WORKER, OWNER AND SUPPLIER

**13.**—(1) A constructor shall ensure, on a project undertaken by the constructor that,

Duties of constructor

- (a) the measures and procedures prescribed by this Act and the regulations are carried out on the project;
- (b) every employer and every worker performing work on the project complies with this Act and the regulations; and
- (c) the health and safety of workers on the project is protected.

Notice of  
project

(2) Where so prescribed, a constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed. 1978, c. 83, s. 13.

Duties of  
employers

**14.—**(1) An employer shall ensure that,

- (a) the equipment, materials and protective devices as prescribed are provided;
- (b) the equipment, materials and protective devices provided by him are maintained in good condition;
- (c) the measures and procedures prescribed are carried out in the work place;
- (d) the equipment, materials and protective devices provided by him are used as prescribed; and
- (e) a floor, roof, wall, pillar, support or other part of a work place is capable of supporting all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the *Building Code Act*.

R.S.O. 1980,  
c. 51

Idem

(2) Without limiting the strict duty imposed by subsection (1), an employer shall,

- (a) provide information, instruction and supervision to a worker to protect the health or safety of the worker;
- (b) when appointing a supervisor, appoint a competent person;
- (c) acquaint a worker or a person in authority over a worker with any hazard in the work and in the handling, storage, use, disposal and transport of any article, device, equipment or a biological, chemical or physical agent;
- (d) afford assistance and co-operation to a committee and a health and safety representative in the carrying out by the committee and the health and safety representative of any of their functions;
- (e) only employ in or about a work place a person over such age as may be prescribed;
- (f) not knowingly permit a person who is under such age as may be prescribed to be in or about a work place;

- (g) take every precaution reasonable in the circumstances for the protection of a worker; and
- (h) post, in the work place, a copy of this Act and any explanatory material prepared by the Ministry, both in English and the majority language of the work place, outlining the rights, responsibilities and duties of workers.

(3) For the purposes of clause (2) (b), an employer may appoint <sup>Idem</sup> himself as a supervisor where the employer is a competent person. 1978, c. 83, s. 14.

**15.—(1)** In addition to the duties imposed by section 14, <sup>Additional duties of employers</sup> an employer shall,

- (a) establish an occupational health service for workers as prescribed;
- (b) where an occupational health service is established as prescribed, maintain the same according to the standards prescribed;
- (c) keep and maintain accurate records of the handling, storage, use and disposal of biological, chemical or physical agents as prescribed;
- (d) accurately keep and maintain and make available, to the worker affected such records of the exposure of a worker to biological, chemical or physical agents as may be prescribed;
- (e) notify a Director of the use or introduction into a work place of such biological, chemical or physical agents as may be prescribed;
- (f) monitor at such time or times or at such interval or intervals the levels of biological, chemical or physical agents in a work place and keep and post accurate records thereof as prescribed;
- (g) comply with a standard limiting the exposure of a worker to biological, chemical or physical agents as prescribed;
- (h) where so prescribed, only permit a worker to work or be in a work place who has undergone such medical examinations, tests or x-rays as prescribed and who is found to be physically fit to do the work in the work place; and
- (i) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for the protection of a worker.

Idem

(2) For the purposes of clause (1) (a), a group of employers, with the approval of a Director, may act as an employer. 1978, c. 83, s. 15.

Duties of supervisor

**16.**—(1) A supervisor shall ensure that a worker,

- (a) works in the manner and with the protective devices, measures and procedures required by this Act and the regulations; and
- (b) uses or wears the equipment, protective devices or clothing that his employer requires to be used or worn.

Additional duties of supervisor

(2) Without limiting the duty imposed by subsection (1), a supervisor shall,

- (a) advise a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware;
- (b) where so prescribed, provide a worker with written instructions as to the measures and procedures to be taken for protection of the worker; and
- (c) take every precaution reasonable in the circumstances for the protection of a worker. 1978, c. 83, s. 16.

Duties of workers

**17.**—(1) A worker shall,

- (a) work in compliance with the provisions of this Act and the regulations;
- (b) use or wear the equipment, protective devices or clothing that his employer requires to be used or worn;
- (c) report to his employer or supervisor the absence of or defect in any equipment or protective device of which he is aware and which may endanger himself or another worker;
- (d) report to his employer or supervisor any contravention of this Act or the regulations or the existence of any hazard of which he knows; and
- (e) where so prescribed, have, at the expense of the employer, such medical examinations, tests or x-rays, at such time or times and at such place or places as prescribed.

Idem

(2) No worker shall,

- (a) remove or make ineffective any protective device required by the regulations or by his employer,



without providing an adequate temporary protective device and when the need for removing or making ineffective the protective device has ceased, the protective device shall be replaced immediately;

- (b) use or operate any equipment, machine, device or thing or work in a manner that may endanger himself or any other worker; or
- (c) engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct. 1978, c. 83, s. 17.

**18.—**(1) The owner of a work place that is not a project Duties of owners shall,

- (a) ensure that,
  - (i) such facilities as may be prescribed are provided,
  - (ii) any facilities prescribed to be provided are maintained as prescribed,
  - (iii) the work place complies with the regulations, and
  - (iv) no work place is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations; and
- (b) where so prescribed, furnish to a Director any drawings, plans or specifications of any work place as prescribed.

(2) The owner of a mine shall cause drawings, plans or specifications to be maintained and kept up to a date not more than six months last past on such scale and showing such matters or things as may be prescribed. Mine plans

(3) Where so prescribed, an owner or employer shall, Plans of work places

- (a) not begin any construction, development, reconstruction, alteration, addition or installation to or in a work place until the drawings, layout and specifications thereof and any alterations thereto have been filed with the Ministry for review by an engineer of the Ministry for compliance with this Act and the regulations; and
- (b) keep a copy of the drawings as reviewed in a convenient location at or near the work place and

such drawings shall be produced by the owner or employer upon the request of an inspector for his examination and inspection.

Additional  
information

(4) An engineer of the Ministry may require the drawings, layout and specifications to be supplemented by the owner or employer with additional information.

Fees

(5) Fees as prescribed for the filing and review of drawings, layout or specifications shall become due and payable by the owner or employer upon filing. 1978, c. 83, s. 18.

Duties of  
suppliers

**19.** Every person who supplies any machine, device, tool or equipment under any rental, leasing or similar arrangement for use in or about a work place shall ensure,

- (a) that the machine, device, tool or equipment is in good condition;
- (b) that the machine, device, tool or equipment complies with this Act and the regulations; and
- (c) if it is his responsibility under the rental, leasing or similar arrangement to do so, that the machine, device, tool or equipment is maintained in good condition. 1978, c. 83, s. 19.

## PART IV

### TOXIC SUBSTANCES

Orders of  
Director

**20.—(1)** Where a biological, chemical or physical agent or combination of such agents is used or intended to be used in the work place and its presence in the work place or the manner of its use is in the opinion of a Director likely to endanger the health of a worker, the Director shall by notice in writing to the employer order that the use, intended use, presence or manner of use be,

- (a) prohibited;
- (b) limited or restricted in such manner as the Director specifies; or
- (c) subject to such conditions regarding administrative control, work practices, engineering control and time limits for compliance as the Director specifies.

(2) Where a Director makes an order to an employer under subsection (1), the order shall, Contents of order

- (a) identify the biological, chemical or physical agent, or combination of such agents, and the manner of use that is the subject-matter of the order; and
- (b) state the opinion of the Director as to the likelihood of the danger to the health of a worker, and his reasons in respect thereof, including the matters or causes which give rise to his opinion.

(3) The employer shall provide a copy of an order made under subsection (1) to the committee, health and safety representative and trade union, if any, and shall cause a copy of the order to be posted in a conspicuous place in the work place where it is most likely to come to the attention of the workers who may be affected by the use, presence or intended use of the biological, chemical or physical agent or combination of agents. Posting of order

(4) Where the employer, a worker or a trade union considers that he or it is aggrieved by an order made under subsection (1), the employer, worker or trade union may by notice in writing given within fourteen days of the making of the order appeal to the Minister. Appeal to Minister

(5) The Minister may, having regard to the circumstances, direct that an appeal under subsection (4) be determined on his behalf by a person appointed by him for that purpose. Delegation

(6) The Minister or, where a person has been appointed under subsection (5), the person so appointed, may give such directions and issue such orders as he considers proper or necessary concerning the procedures to be adopted or followed and shall have all the powers of a chairman of a board of arbitration under subsection 44 (8) of the *Labour Relations Act*. Procedure

R.S.O. 1980,  
c. 228

(7) On an appeal, the Minister or, where a person has been appointed under subsection (5), the person so appointed, may substitute his findings for those of the Director and may rescind or affirm the order appealed from or make a new order in substitution therefor and such order shall stand in the place of and have the like effect under this Act and the regulations as the order of the Director, and such order shall be final and not subject to appeal under this section. Substitution of findings

Matters  
to be  
considered

(8) In making a decision or order under subsection (1) or (7), a Director, the Minister, or, where a person has been appointed under subsection (5), the person so appointed, shall consider as relevant factors,

- (a) the relation of the agent, combination of agents or by-product to a biological or chemical agent that is known to be a danger to health;
- (b) the quantities of the agent, combination of agents or by-product used or intended to be used or present;
- (c) the extent of exposure;
- (d) the availability of other processes, agents or equipment for use or intended use;
- (e) data regarding the effect of the process or agent on health; and
- (f) any criteria or guide with respect to the exposure of a worker to a biological, chemical or physical agent or combination of such agents that are adopted by a regulation.

Suspension  
of order by  
Minister,  
etc.,  
pending  
disposition  
of appeal

(9) On an appeal under subsection (4), the Minister or, where a person has been appointed under subsection (5), the person so appointed, may suspend the operation of the order appealed from pending the disposition of the appeal.

Remunera-  
tion of  
appointee

(10) A person appointed under subsection (5) shall be paid such remuneration and expenses as the Minister, with the approval of the Lieutenant Governor in Council, may determine.

Applica-  
tion

(11) This section does not apply to designated substances.

No hearing  
required  
prior to  
issuing  
order

(12) A Director is not required to hold or afford to an employer or any other person an opportunity for a hearing before making an order under subsection (1). 1978, c. 83, s. 20.

New  
biological  
or chemical  
agents

**21.—(1)** Except for purposes of research and development, no person shall,

- (a) manufacture;
- (b) distribute; or
- (c) supply,



for commercial or industrial use in a work place any new biological or chemical agent or combination of such agents unless he first submits to a Director notice in writing of his intention to manufacture, distribute or supply such new agent or combination of such agents and the notice shall include the ingredients of such new agent or combination of agents and their common or generic name or names and the composition and properties thereof.

(2) Where in the opinion of the Director, which opinion shall be made promptly, the introduction of the new biological or chemical agent or combination of such agents referred to in subsection (1) may endanger the health or safety of the workers in a work place, the Director shall require the manufacturer, distributor or supplier, as the case may be, to provide, at the expense of the manufacturer, distributor or supplier, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the Director, of the agent or combination of agents intended to be manufactured, distributed or supplied and the manner of use including, the matters referred to in subclauses 28 (1) (l) (i) to (vii). Report on assessment

(3) For the purpose of this section, "new biological or chemical agent or combination of such agents" means any such agent or combination of such agents other than those used in one or more work places and included in an inventory compiled or adopted by the Ministry. 1978, c. 83, s. 21. Interpretation

**22.** Prior to a substance being designated under paragraph 14 of subsection 41 (2), the Minister, Designation of substances

(a) shall publish in *The Ontario Gazette* a notice stating that the substance may be designated and calling for briefs or submissions in relation to the designation; and

(b) shall publish in *The Ontario Gazette* a notice setting forth the proposed regulation relating to the designation of the substance at least sixty days before the regulation is filed with the Registrar of Regulations. 1978, c. 83, s. 22.

## PART V

### REFUSAL TO WORK WHERE HEALTH OR SAFETY IN DANGER

**23.—**(1) This section does not apply to,

Application

(a) a person employed in, or who is a member of, a police force to which the *Police Act* applies;

R.S.O. 1980,  
c. 381

R.S.O. 1980,  
c. 164

(b) a full-time fire fighter as defined in the *Fire Departments Act*; or

(c) a person employed in the operation of a correctional institution or facility, training school or centre, detention and observation home, or other similar institution, facility, school or home.

Idem

(2) Where circumstances are such that the life, health or safety of another person or the public may be in imminent jeopardy, this section does not apply to a person employed in the operation of any of the following institutions, facilities or services whether granted aid out of moneys appropriated by the Legislature or not and whether operated for private gain or not:

1. A hospital, sanatorium, nursing home, home for the aged, psychiatric institution, mental health or mental retardation centre or a rehabilitation facility.
2. A residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental handicap.
3. An ambulance service or a first aid clinic or station.
4. A laboratory operated by the Crown or a laboratory licensed under the *Public Health Act*.
5. Any laundry, food service, power plant or technical service or facility belonging to, or used in conjunction with, any institution, facility or service referred to in paragraphs 1 to 4.

R.S.O. 1980,  
c. 409

Refusal  
to work

(3) A worker may refuse to work or do particular work where he has reason to believe that,

- (a) any equipment, machine, device or thing he is to use or operate is likely to endanger himself or another worker;
- (b) the physical condition of the work place or the part thereof in which he works or is to work is likely to endanger himself; or
- (c) any equipment, machine, device or thing he is to use or operate or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself or another worker.

Report of  
refusal to  
work

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of his refusal

to his employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

- (a) a committee member who represents workers, if any;
- (b) a health and safety representative, if any; or
- (c) a worker who because of his knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay.

(5) Until the investigation is completed, the worker shall remain in a safe place near his work station.

Worker to  
remain near  
work station

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,

Refusal to  
work following  
investigation

- (a) the equipment, machine, device or thing that was the cause of his refusal to work or do particular work continues to be likely to endanger himself or another worker;
- (b) the physical condition of the work place or the part thereof in which he works continues to be likely to endanger himself; or
- (c) any equipment, machine, device or thing he is to use or operate or the physical condition of the work place or the part thereof in which he works or is to work is in contravention of this Act or the regulations and such contravention continues to be likely to endanger himself or another worker,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof.

(7) An inspector shall investigate the refusal to work in the presence of the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause (4) (a), (b) or (c).

Investiga-  
tion by  
inspector

(8) The inspector shall, following the investigation referred to in subsection (7), decide whether the machine, device,

Decision of  
inspector

thing or the work place or part thereof is likely to endanger the worker or another person.

Idem

(9) The inspector shall give his decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause (4) (a), (b) or (c).

Worker to remain at a safe place pending decision

(10) Pending the investigation and decision of the inspector, the worker shall remain at a safe place near his work station during his normal working hours unless the employer, subject to the provisions of a collective agreement, if any,

(a) assigns the worker reasonable alternative work during such hours; or

(b) subject to section 24, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker.

Duty to advise other workers

(11) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the work place or the part thereof which is being investigated unless the worker to be so assigned has been advised of the refusal by another worker and the reason therefor.

Entitlement to time from work

(12) The time spent by a person mentioned in clause (4) (a), (b) or (c) in carrying out his duties under subsections (4) and (7), shall be deemed to be work time for which the person shall be paid by his employer at his regular or premium rate as may be proper. 1978, c. 83, s. 23.

## PART VI

### REPRISALS BY EMPLOYER PROHIBITED

No discipline, dismissal, etc., by employer

**24.—(1)** No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss a worker;

(b) discipline or suspend or threaten to discipline or suspend a worker;

(c) impose any penalty upon a worker; or

(d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations.



(2) Where a worker complains that an employer or person acting on behalf of an employer has contravened subsection (1), the worker may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint.

Arbitration

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection (2), and section 89 of the *Labour Relations Act*, except subsection (5), applies with all necessary modifications, as if such section, except subsection (5), is enacted in and forms part of this Act.

Inquiry by Ontario Labour Relations Board  
R.S.O. 1980, c. 228

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), sections 102, 103, 106, 108 and 109 of the *Labour Relations Act* apply, with all necessary modifications.

Idem

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer.

Onus of proof

(6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection (1).

Jurisdiction when complaint by Crown employee

(7) Where on an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the Board determines that a worker has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances.

Board may substitute penalty

(8) Notwithstanding subsection (2), a person who is subject to a rule or code of discipline under the *Police Act* shall have his complaint in relation to an alleged contravention of subsection (1) dealt with under that Act. 1978, c. 83, s. 24.

Exception  
R.S.O. 1980, c. 381

## PART VII

### NOTICES

**25.**—(1) Where a person is killed or critically injured from any cause at a work place, the constructor, if any, injury

Notice of death or injury

and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone, telegram or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations may prescribe.

Preservation of wreckage

(2) Where a person is killed or is critically injured at a work place no person shall, except for the purpose of,

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system; or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. 1978, c. 83, s. 25.

Notice of accident, explosion or fire causing injury

**26.**—(1) Where an accident, explosion or fire causes injury to a person at a work place whereby he is disabled from performing his usual work or requires medical attention, and such occurrence does not cause death or critical injury to any person, the employer shall give notice in writing, within four days of the occurrence, to a Director, and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed.

Notice of occupational illness

(2) Where an employer is advised by a worker or by a person on behalf of the worker that the worker has an occupational illness, the employer shall give notice in writing, within four days of being so advised, to a Director and to the committee, health and safety representative and trade union, if any, containing such information and particulars as may be prescribed.

Idem

(3) Subsection (2) applies, with all necessary modifications, where an employer is advised by a former worker of the employer or a person on behalf of such worker, that such worker has or had an occupational illness. 1978, c. 83, s. 26.

Accidents, explosions, etc., at a project site or mine

**27.** Where a notice or report is not required under section 25 or 26 and an accident, premature or unexpected

explosion, fire, flood or inrush of water, failure of any equipment, machine, device, article or thing, cave-in, subsidence, rockburst, or other incident as prescribed occurs at a project site, mine or mining plant, notice in writing of the occurrence shall be given to a Director and to the committee, health and safety representative and trade union, if any, by the constructor of the project or the owner of the mine or mining plant within two days of the occurrence containing such information and particulars as may be prescribed. 1978, c. 83, s. 27.

## PART VIII

### ENFORCEMENT

**28.—**(1) An inspector may, for the purposes of carrying out his duties and powers under this Act and the regulations, Powers of  
inspector

- (a) subject to subsection (2), enter in or upon any work place at any time without warrant or notice;
- (b) take up or use any machine, device, article, thing, material or biological, chemical or physical agent or part thereof;
- (c) require the production of any drawings, specifications, licence, document, record or report, and inspect, examine and copy the same;
- (d) upon giving a receipt therefor, remove any drawings, specifications, licence, document, record or report inspected or examined for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, shall promptly return the same to the person who produced or furnished them;
- (e) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a work place and for such purposes, take and carry away such samples as may be necessary;
- (f) in any inspection, examination, inquiry or test, be accompanied and assisted by or take with him any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him and use any equipment or materials required for such purpose;

- (g) make inquiries of any person who is or was in a work place either separate and apart from another person or in the presence of any other person that are or may be relevant to an inspection, examination, inquiry or test;
- (h) require that a work place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, investigation or test;
- (i) require that any equipment, machine, device, article, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;
- (j) require in writing an owner, constructor or employer to provide, at the expense of the owner, constructor or employer, a report bearing the seal and signature of a professional engineer stating,
  - (i) the load limits of a floor, roof or temporary work or part of a building, structure or temporary work,
  - (ii) that a floor, roof or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be applied to it, or
  - (iii) that a floor, roof or temporary work, or part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subject without exceeding the allowable unit stresses for the materials used as provided under the *Building Code Act*;
- (k) require in writing an owner of a mine or part thereof to provide, at his expense, a report in writing bearing the seal and signature of a professional engineer stating that the ground stability of, the mining methods and the support or rock reinforcement used in the mine or part thereof is such that a worker is not likely to be endangered; and
- (l) require in writing an employer to produce any record or information, or to provide, at the ex-



pense of the employer, a report or assessment, made or to be made by a person possessing such special, expert or professional knowledge or qualifications as are specified by the inspector, of any process or biological, chemical or physical agents or combination of such agents used or intended to be used in a work place, and the manner of use including,

- (i) the ingredients thereof and their common or generic name or names,
- (ii) the composition and the properties thereof,
- (iii) the toxicological effect thereof,
- (iv) the effect of exposure thereto whether by contact, inhalation or ingestion,
- (v) the protective measures used or to be used in respect thereof,
- (vi) the emergency measures used or to be used to deal with exposure in respect thereof, and
- (vii) the effect of the use, transport and disposal thereof.

(2) An inspector shall only enter a dwelling or that part of a dwelling actually being used as a work place with the consent of the occupier or under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

Entry to dwellings

R.S.O. 1980,  
c. 400

(3) Where an inspector makes an inspection of a work place under the powers conferred upon him under subsection (1), the constructor, employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, because of his knowledge, experience and training, to represent it or them and, where there is no trade union, a worker selected by the workers because of his knowledge, training and experience to represent them, the opportunity to accompany the inspector during his physical inspection of a work place, or any part or parts thereof.

Representative to accompany inspector

(4) Where there is no committee member representing workers, health and safety representative or worker selected under subsection (3), the inspector shall endeavour to consult during his physical inspection with a reasonable number of the

Consultation with workers

workers concerning matters of health and safety at their work.

Entitle-  
ment to  
time from  
work

(5) The time spent by a committee member representing workers, health and safety representative or worker selected in accordance with subsection (3) in accompanying an inspector during his physical inspection, shall be deemed to be work time for which he shall be paid by his employer at his regular or premium rate as may be proper. 1978, c. 83, s. 28.

Orders by  
inspectors  
where non-  
compliance

**29.**—(1) Where an inspector finds that a provision of this Act or the regulations is being contravened, he may order, orally or in writing, the owner, constructor, employer, or person whom he believes to be in charge of a work place or the person whom he believes to be the contravener to comply with the provision and may require the order to be carried out forthwith or within such period of time as the inspector specifies.

Idem

(2) Where an inspector makes an oral order under subsection (1), he shall confirm the order in writing before leaving the work place.

Contents of  
order

(3) An order made under subsection (1) shall indicate generally the nature of the contravention and where appropriate the location of the contravention.

Orders by  
inspector  
where  
worker en-  
dangered

(4) Where an inspector makes an order under subsection (1) and finds that the contravention of this Act or the regulations is a danger or hazard to the health or safety of a worker he may,

- (a) order that any place, equipment, machine, device, article or thing or any process or material shall not be used until the order is complied with;
- (b) order that work at the work place as indicated in the order shall stop until the order is complied with, or until the order to stop work is withdrawn or cancelled by an inspector;
- (c) order that the work place where the contravention exists be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access thereto by a worker until the danger or hazard to the health or safety of a worker is removed.

(5) Where an inspector makes an order under this section, he may affix to the work place, or to any equipment, machine, device, article or thing, a copy thereof or a notice in the prescribed form and no person, except an inspector, shall remove such copy or notice unless authorized to do so by an inspector. Posting of notice

(6) Where an inspector makes an order in writing or issues a report of his inspection to an owner, constructor, employer or person in charge of the work place, the owner, constructor, employer or person in charge of the work place shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places at the work place where it is most likely to come to the attention of the workers and shall furnish a copy of such order or report to the health and safety representative and the committee, if any, and the inspector shall cause a copy thereof to be furnished to a person who has complained of a contravention of this Act or the regulations. Idem

(7) An inspector is not required to hold or afford to an owner, constructor, employer or any other person an opportunity for a hearing before making an order. 1978, c. 83, s. 29. No hearing required prior to making order

**30.** Where an order is made under clause 29 (4) (c), no owner, constructor, employer or supervisor shall require or permit a worker to enter the work place except for the purpose of doing work that is necessary or required to remove the danger or hazard and only where the worker is protected from the danger or hazard. 1978, c. 83, s. 30. Entry into barricaded area

**31.** In addition to any other remedy or penalty therefor, where an order made under subsection 29 (4) is contravened, such contravention may be restrained upon an *ex parte* application to a judge or local judge of the Supreme Court made at the instance of a Director. 1978, c. 83, s. 31. Injunction proceedings

**32.—(1)** Any employer, constructor, owner, worker or trade union which considers himself or itself aggrieved by any order made by an inspector under this Act or the regulations may, within fourteen days of the making thereof, appeal to a Director who shall hear and dispose of the appeal as promptly as is practicable. Appeals from order of an inspector

(2) An appeal to a Director may be made in writing or orally or by telephone, but the Director may require the grounds for appeal to be specified in writing before the appeal is heard. Method

Parties

(3) The appellant, the inspector from whom the appeal is taken and such other persons as a Director may specify are parties to an appeal under this section.

Powers  
of a  
Director

(4) On an appeal under this section, a Director may substitute his findings for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor, and for such purpose has all the powers of an inspector and the order of the Director shall stand in the place of and have the like effect under this Act and the regulations as the order of the inspector.

Order,  
extended  
meaning

(5) In this section, an order of an inspector under this Act or the regulations includes any order or decision made or given or the imposition of any terms or conditions therein by an inspector under the authority of this Act or the regulations or the refusal to make an order or decision by an inspector.

Decision of  
Director  
final

(6) A decision of the Director under this section is final.

Suspension  
of order by  
Director  
pending  
disposition  
of appeal

(7) On an appeal under subsection (1), a Director may suspend the operation of the order appealed from pending the disposition of the appeal.

Applica-  
tion

(8) This section does not apply to the order of a Director made under section 20. 1978, c. 83, s. 32.

Obstruc-  
tion of  
inspector

**33.—**(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations.

Assistance  
to  
inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector in the exercise of his powers or performance of his duties under this Act or the regulations.

False  
informa-  
tion, etc.

(3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act or the regulations.

Monitoring  
devices

(4) No person shall interfere with any monitoring equipment or device in a work place.

Obstruc-  
tion of  
committee,  
etc.

(5) No person shall knowingly,



- (a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act;
- (b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; or
- (c) hinder or interfere with a worker selected by a trade union or trade unions or a worker selected by the workers to represent them in the exercise of a power or performance of a duty under this Act. 1978, c. 83, s. 33.

**34.—**(1) Except for the purposes of this Act and the regulations or as required by law, Informa-  
tion  
confidential

- (a) an inspector, a person accompanying an inspector or a person who, at the request of an inspector, makes an examination, test or inquiry, shall not publish, disclose or communicate to any person any information, material, statement, report or result of any examination, test or inquiry acquired, furnished, obtained, made or received under the powers conferred under this Act or the regulations;
- (b) no person shall publish, disclose or communicate to any person any secret manufacturing process or trade secret acquired, furnished, obtained, made or received under the provisions of this Act or the regulations;
- (c) no person to whom information is communicated under this Act and the regulations shall divulge the name of the informant to any person; and
- (d) no person shall disclose any information obtained in any medical examination, test or x-ray of a worker made or taken under this Act except in a form calculated to prevent the information from being identified with a particular person or case.

(2) An inspector or a person who, at the request of an inspector, accompanies an inspector, or a person who makes an examination, test, inquiry or takes samples at the request of an inspector is not a compellable witness in a civil suit or any proceeding, except an inquest under the *Coroners Act* respecting any information, material, statement or test Com-  
pellability,  
civil suit

R.S.O. 1980,  
c. 93

acquired, furnished, obtained, made or received under this Act or the regulations.

Power of  
Director  
to disclose

(3) A Director may communicate or allow to be communicated or disclosed information, material, statements or the result of a test acquired, furnished, obtained, made or received under this Act or the regulations. 1978, c. 83, s. 34.

Copies of  
reports

**35.** A Director may, upon receipt of a request in writing from the owner of a work place who has entered into an agreement to sell the same and upon payment of the fee or fees prescribed, furnish to the owner or a person designated by him copies of reports or orders of an inspector made under this Act in respect of the work place as to its compliance with subsection 18 (1). 1978, c. 83, s. 35.

Liability  
of certain  
persons

**36.—**(1) No action or other proceeding for damages, prohibition, or mandamus lies or shall be instituted against a Director, an inspector, an engineer of the Ministry, a health and safety representative, a committee member, a worker selected by a trade union or trade unions or a worker selected by the workers to represent them for an act or an omission done or omitted to be done by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability  
of Crown  
R.S.O. 1980,  
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a Director, and inspector or an engineer of the Ministry to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1978, c. 83, s. 36.

## PART IX

### OFFENCES AND PENALTIES

Penalties

**37.—**(1) Every person who contravenes or fails to comply with,

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,

is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than twelve months, or to both.

(2) On a prosecution for a failure to comply with,

Defence

(a) subsection 13 (1);

(b) clause 14 (1) (b), (c) or (d); or

(c) subsection 16 (1),

it shall be a defence for the accused to prove that every precaution reasonable in the circumstances was taken.

(3) In a prosecution of an offence under any provision of this Act, any act or neglect on the part of any manager, agent, representative, officer, director or supervisor of the accused, whether a corporation or not, shall be the act or neglect of the accused. 1978, c. 83, s. 37.

Accused  
liable for  
acts or  
neglect of  
managers,  
agents, etc.

**38.—**(1) In any proceeding or prosecution under this Act,

Certified  
copies of  
documents,  
etc., as  
evidence

(a) a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister or an inspector;

(b) a document purporting to be a copy of a notice, drawing, record or other document, or any extract therefrom given or made under this Act or the regulations and purporting to be certified by an inspector; or

(c) a document purporting to certify the result of a test or an analysis of a sample of air and setting forth the concentration or amount of a biological, chemical or physical agent in a work place or part thereof and purporting to be certified by an inspector,

is evidence of the order, decision, writing or document, and the facts appearing in the order, decision, writing or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

(2) In any proceeding or prosecution under this Act, a copy of an order or decision purporting to have been made under this Act or the regulations and purporting to have been signed by the Minister, a Director or an inspector may be served,

Service of  
orders and  
decisions

(a) personally in the case of an individual or in case of a partnership upon a partner, and in the case of a

corporation, upon the president, vice-president, secretary, treasurer or a director, or upon the manager or person in charge of the work place; or

- (b) by registered letter addressed to a person or corporation mentioned in clause (a) at his or its last known place of business,

and the same shall be deemed to be good and sufficient service thereof. 1978, c. 83, s. 38.

Place of  
trial

**39.** An information in respect of an offence under this Act may, at the election of the informant, be heard, tried and determined by the provincial offences court having jurisdiction in the county or district in which the accused is resident or carries on business although the subject-matter of the information did not arise in that county or district. 1978, c. 83, s. 39.

Limitation  
on prosecu-  
tions

**40.** No prosecution under this Act shall be instituted more than one year after the last act or default upon which the prosecution is based occurred. 1978, c. 83, s. 40.

## PART X

### REGULATIONS

Regula-  
tions

**41.—(1)** The Lieutenant Governor in Council may make such regulations as are advisable for the health or safety of persons in or about a work place.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

1. defining any word or expression used in this Act or the regulations that is not defined in this Act;
2. designating or defining any industry, work place, employer or class of work places or employers for the purposes of this Act, a part of this Act, or the regulations or any provision thereof;
3. exempting any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof from the application of a regulation or any provision thereof;
4. limiting or restricting the application of a regulation or any provision thereof to any work place, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof;



5. respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act;
6. respecting any matter or thing, where a provision of this Act requires that the matter or thing be done, used or carried out or provided as prescribed;
7. respecting any matter or thing, where it is a condition precedent that a regulation be made prescribing the matter or thing before this Act or a provision of this Act has any effect;
8. providing for and prescribing fees and the payment or refund of fees;
9. regulating or prohibiting the installation or use of any machine, device or thing or any class thereof;
10. requiring that any equipment, machine, device, article or thing used bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, article or thing and designating organizations for such purposes;
11. respecting the reporting by physicians and others of workers affected by any biological, chemical or physical agents or combination thereof;
12. regulating or prohibiting atmospheric conditions to which any worker may be exposed in a work place;
13. prescribing methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any biological, chemical or physical agent or combination thereof in a work place;
14. prescribing any biological, chemical or physical agent or combination thereof as a designated substance;
15. prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of any designated substance;
16. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and

requiring compliance with any code or standard that is so adopted;

17. adopting by reference any criteria or guide in relation to the exposure of a worker to any biological, chemical or physical agent or combination thereof;
18. enabling the Director by notice in writing to designate that any part of a project shall be an individual project for the purposes of this Act and the regulations and prescribing to whom notice shall be given;
19. permitting the Minister to approve laboratories for the purpose of carrying out and performing sampling, analyses, tests, and examinations, and requiring that sampling, analyses, examinations, and tests be carried out and performed by a laboratory approved by the Minister;
20. requiring and providing for the registration of employers of workers;
21. providing for the establishment, equipment, operation and maintenance of mine rescue stations, as the Minister may direct, and providing for the payment of the cost thereof and the recovery of such cost from the mining industry;
22. prescribing forms and notices and providing for their use; and
23. prescribing building standards for industrial establishments. 1978, c. 83, s. 41.

## CHAPTER 322

## Occupiers' Liability Act

**1. In this Act,**Interpre-  
tation

(a) "occupier" includes,

- (i) a person who is in physical possession of premises, or
- (ii) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

(b) "premises" means lands and structures, or either of them, and includes,

- (i) water,
- (ii) ships and vessels,
- (iii) trailers and portable structures designed or used for residence, business or shelter,
- (iv) trains, railway cars, vehicles and aircraft, except while in operation. 1980, c. 14, s. 1.

**2.** Subject to section 9, the provisions of this Act apply in place of the rules of the common law that determine the care that the occupier of premises at common law is required to show for the purpose of determining his liability in law in respect of dangers to persons entering on the premises or the property brought on the premises by those persons. 1980, c. 14, s. 2.

Common law  
duty of care  
superseded

**3.—(1)** An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.

Occupier's  
duty

Idem (2) The duty of care provided for in subsection (1) applies whether the danger is caused by the condition of the premises or by an activity carried on on the premises.

Idem (3) The duty of care provided for in subsection (1) applies except in so far as the occupier of premises is free to and does restrict, modify or exclude his duty. 1980, c. 14, s. 3.

Risks  
willingly  
assumed

4.—(1) The duty of care provided for in subsection 3 (1) does not apply in respect of risks willingly assumed by the person who enters on the premises, but in that case the occupier owes a duty to the person to not create a danger with the deliberate intent of doing harm or damage to the person or his property and to not act with reckless disregard of the presence of the person or his property.

Criminal  
activity

(2) A person who is on premises with the intention of committing, or in the commission of, a criminal act shall be deemed to have willingly assumed all risks and is subject to the duty of care set out in subsection (1).

Trespass  
and  
permitted  
recreational  
activity

(3) A person who enters premises described in subsection (4) shall be deemed to have willingly assumed all risks and is subject to the duty of care set out in subsection (1),

R.S.O. 1980,  
c. 511

(a) where the entry is prohibited under the *Trespass to Property Act*;

(b) where the occupier has posted no notice in respect of entry and has not otherwise expressly permitted entry; or

(c) where the entry is for the purpose of a recreational activity and,

(i) no fee is paid for the entry or activity of the person, other than a benefit or payment received from a government or government agency or a non-profit recreation club or association, and

(ii) the person is not being provided with living accommodation by the occupier.

Premises  
referred  
to in  
subs. (3)

(4) The premises referred to in subsection (3) are,

(a) a rural premises that is,

(i) used for agricultural purposes, including land under cultivation, orchards, pastures, woodlots and farm ponds,

(ii) vacant or undeveloped premises,



- (iii) forested or wilderness premises;
  - (b) golf courses when not open for playing;
  - (c) utility rights-of-way and corridors, excluding structures located thereon;
  - (d) unopened road allowances;
  - (e) private roads reasonably marked by notice as such; and
  - (f) recreational trails reasonably marked by notice as such.
- 1980, c. 14, s. 4.

**5.—**(1) The duty of an occupier under this Act, or his liability for breach thereof, shall not be restricted or excluded by the provisions of any contract to which the person to whom the duty is owed is not a party, whether or not the occupier is bound by the contract to permit such person to enter or use the premises.

Restriction  
of duty or  
liability

(2) A contract shall not by virtue of this Act have the effect, unless it expressly so provides, of making an occupier who has taken reasonable care, liable to any person not a party to the contract, for dangers due to the faulty execution of any work of construction, maintenance or repair, or other like operation by persons other than himself, his servants, and persons acting under his direction and control.

Extension  
of liability  
by contract

(3) Where an occupier is free to restrict, modify or exclude his duty of care or his liability for breach thereof, he shall take reasonable steps to bring such restriction, modification or exclusion to the attention of the person to whom the duty is owed. 1980, c. 14, s. 5.

Reasonable  
steps to  
inform

**6.—**(1) Where damage to any person or his property is caused by the negligence of an independent contractor employed by the occupier, the occupier is not on that account liable if in all the circumstances he had acted reasonably in entrusting the work to the independent contractor, if he had taken such steps, if any, as he reasonably ought in order to satisfy himself that the contractor was competent and that the work had been properly done, and if it was reasonable that the work performed by the independent contractor should have been undertaken.

Liability  
where  
independent  
contractor

(2) Where there is more than one occupier of premises, any benefit accruing by reason of subsection (1) to the occupier who employed the independent contractor shall accrue to all occupiers of the premises.

Idem

Idem

(3) Nothing in this section affects any duty of the occupier that is non-delegable at common law or affects any provision in any other Act that provides that an occupier is liable for the negligence of an independent contractor. 1980, c. 14, s. 6.

Application  
of ss. 5 (1, 2), 6

**7.** In so far as subsections 5 (1) and (2) prevent the duty of care owed by an occupier, or liability for breach thereof, from being restricted or excluded, they apply to contracts entered into both before and after the commencement of this Act, and in so far as section 6 enlarges the duty of care owed by an occupier, or liability for breach thereof, it applies only in respect of contracts entered into after the 8th day of September, 1980. 1980, c. 14, s. 7.

Obligations  
of landlord  
as occupier

**8.—(1)** Where premises are occupied or used by virtue of a tenancy under which the landlord is responsible for the maintenance or repair of the premises, it is the duty of the landlord to show towards any person or the property brought on the premises by those persons, the same duty of care in respect of dangers arising from any failure on his part in carrying out his responsibility as is required by this Act to be shown by an occupier of the premises.

Idem

(2) For the purposes of this section, a landlord shall not be deemed to have made default in carrying out any obligation to a person unless his default is such as to be actionable at the suit of the person entitled to possession of the premises.

Interpre-  
tation

(3) For the purposes of this section, obligations imposed by any enactment by virtue of a tenancy shall be treated as imposed by the tenancy, and "tenancy" includes a statutory tenancy, an implied tenancy and any contract conferring the right of occupation, and "landlord" shall be construed accordingly.

Application  
of section

(4) This section applies to all tenancies whether created before or after the commencement of this Act. 1980, c. 14, s. 8.

Preservation  
of higher  
obligations

**9.—(1)** Nothing in this Act relieves an occupier of premises in any particular case from any higher liability or any duty to show a higher standard of care that in that case is incumbent on him by virtue of any enactment or rule of law imposing special liability or standards of care on particular classes of persons including, but without restricting the generality of the foregoing, the obligations of,

R.S.O. 1980,  
c. 217

- (a) innkeepers, subject to the *Innkeepers Act*;
- (b) common carriers;
- (c) bailees.

(2) Nothing in this Act shall be construed to affect the rights, duties and liabilities resulting from a master and servant relationship where it exists. Master and servant relationships

(3) The provisions of the *Negligence Act* apply with respect to causes of action to which this Act applies. 1980, c. 14, s. 9. Application of R.S.O. 1980, c. 315

**10.**—(1) This Act binds the Crown, subject to the *Proceedings Against the Crown Act*. Act binds Crown R.S.O. 1980, c. 393

(2) This Act does not apply to the Crown or to any municipal corporation, where the Crown or the municipal corporation is an occupier of a public highway or a public road. 1980, c. 14, s. 10. Exception

**11.** This Act does not affect rights and liabilities of persons in respect of causes of action arising before the 8th day of September, 1980. 1980, c. 14, s. 11. Application of Act





## CHAPTER 323

## Official Notices Publication Act

1. *The Ontario Gazette*, being the official notices publication of Ontario authorized by chapter 6 of the Statutes of Ontario, 1868, shall be published by the Queen's Printer at the times and in the form and style now established or at such times or in such form and style as the Lieutenant Governor in Council may order. R.S.O. 1970, c. 303, s. 1; 1973, c. 2, s. 4(3). *The Ontario Gazette* authorized

2. Unless another mode of publication is authorized by law, there shall be published in *The Ontario Gazette*, Notices, etc., to be published

(a) all proclamations issued by the Lieutenant Governor;

(b) all notices, orders, regulations and other documents relating to matters within the authority of the Legislature that require publication; and

(c) all advertisements, notices and publications that are required to be given by the Crown or by any ministry of the Government of Ontario, or by any public authority, or by any officer or person. R.S.O. 1970, c. 303, s. 2; 1972, c. 1, s. 2.

3. If in any Act of the late Province of Upper Canada or of the late Province of Canada in force in Ontario and being within the authority of the Legislature any notice is directed to be given in the *Upper Canada Gazette* or in the *Canada Gazette*, the same shall be given in *The Ontario Gazette*. R.S.O. 1970, c. 303, s. 3. Notices published under Acts of Upper Canada or Canada

4. The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the rates that shall be paid for publication of matters in *The Ontario Gazette* and prescribing the time and manner of payment of such rates;

(b) prescribing the rates that shall be paid by subscribers to *The Ontario Gazette* and by others for copies thereof and prescribing the time and manner of payment of such rates. R.S.O. 1970, c. 303, s. 4.



## CHAPTER 324

### Oleomargarine Act

#### 1. In this Act,

Interpre-  
tation

- (a) “chief inspector” means the chief inspector appointed under this Act;
- (b) “licence” means a licence under this Act;
- (c) “Minister” means the Minister of Agriculture and Food;
- (d) “oleomargarine” means any food substance other than butter, of whatever origin, source or composition that is prepared for the same uses as butter and that is manufactured wholly or in part from any fat or oil other than that of milk;
- (e) “package” means any wrapper, carton, box, tub, crock, crate or any other covering or container;
- (f) “public eating place” means any place where food or drink is offered for sale to the public for consumption on the premises and includes a hotel, inn, restaurant, public conveyance, victualling house and lunch counter;
- (g) “regulations” means the regulations made under this Act;
- (h) “Tribunal” means the Farm Products Appeal Tribunal under the *Ministry of Agriculture and Food Act*, R.S.O. 1970, c. 304, s. 1; 1971, c. 50, s. 60 (1); 1978, c. 100, s. 16 (1, 2).

R.S.O. 1980,  
c. 270

#### 2. Every keeper of a public eating place where oleomargarine is served as such shall,

Oleo-  
margarine  
served in  
public  
eating  
places

- (a) where a menu is used, cause to be displayed thereon in a conspicuous manner the words “Oleomargarine is served here”;
- (b) where a menu is not used, cause to have displayed in a conspicuous manner in each room or place where

food is served a sign or placard bearing the words "Oleomargarine is served here" in letters large enough to be distinctly seen from all parts of each room or place. R.S.O. 1970, c. 304, s. 2.

Mixing  
oleomar-  
garine and  
butter  
prohibited

**3.** No person shall mix oleomargarine with butter for purposes of sale or for use in any public eating place. R.S.O. 1970, c. 304, s. 3.

Colouring

**4.** No oleomargarine shall have a tint or shade containing more than one and six-tenths degrees and less than ten and one-half degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale read under conditions substantially similar to those established by the United States Bureau of Internal Revenue, or the equivalent of such measurement. R.S.O. 1970, c. 304, s. 4.

Packaging

**5.** Every package containing oleomargarine shall have legibly marked thereon in addition to anything required under any Act of the Parliament of Canada or of the Legislature,

(a) the word "oleomargarine" or the trade name of the contents;

(b) a list of the ingredients in the oleomargarine and the percentage of each such ingredient; and

(c) the kinds of refined oil forming an ingredient in the oleomargarine and the percentage that each kind is of the total refined oil. R.S.O. 1970, c. 304, s. 5.

Licence  
required

**6.—(1)** No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the chief inspector. 1971, c. 50, s. 60 (2).

Unlawful  
manufacture,  
etc.

(2) No person shall manufacture, sell, offer for sale, have in his possession for sale or serve in any public eating place any oleomargarine that does not comply with the provisions of this Act or the regulations. R.S.O. 1970, c. 304, s. 6 (2).

Licence,  
issue

**7.—(1)** The chief inspector shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,

(a) he finds that,

(i) the applicant was previously the holder of a licence and such licence was cancelled under this Act, or



- (ii) the applicant or, where the applicant is a corporation, any officer or director thereof or any person who will be associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act,

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence;  
or

- (b) he is of opinion that,

- (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law, or

- (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(2) Subject to section 8, the chief inspector shall renew <sup>Renewal</sup> a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 60 (3), *part*.

**8.**—(1) The chief inspector may refuse to renew or may suspend or cancel a licence if, after a hearing, he finds that, <sup>Refusal to renew, suspension or cancellation</sup>

- (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or

- (b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

(2) Notwithstanding subsection (1), the chief inspector, by <sup>Provisional suspension, etc.</sup> notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the

opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation  
of licence  
pending  
renewal

(3) Subject to subsection (2), where, within the time prescribed or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. 1971, c. 50, s. 60 (3), *part*.

Notice of  
hearing

**9.**—(1) The notice of a hearing by the chief inspector under section 7 or 8 shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examina-  
tion of  
documentary  
evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 60 (3), *part*.

Variation  
of decision  
by chief  
inspector

**10.** Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing, he may, at any time of his own motion or on the application, of the person who was the applicant or licensee, vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 60 (3), *part*.

Appeal to  
Tribunal

**11.**—(1) Where the chief inspector refuses to issue or renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Tribunal within fifteen days after receipt of the decision of the chief inspector, appeal to the Tribunal. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Extension  
of time  
for appeal

(2) The Tribunal may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied

that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

(3) Where an applicant or licensee appeals to the Tribunal under this section, the Tribunal shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Tribunal considers proper and, for such purpose, the Tribunal may substitute its opinion for that of the chief inspector. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Powers of  
Tribunal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. 1971, c. 50, s. 60 (3), *part*.

Effect of  
decision  
pending  
disposal of  
appeal

**12.**—(1) The chief inspector, the appellant and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this Act. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Parties

(2) Members of the Tribunal assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Members  
making  
decision  
not to  
have taken  
part in  
investiga-  
tion, etc.

(3) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Recording  
of evidence

(4) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Findings  
of fact

R.S.O. 1980,  
c. 484

Only  
members  
at hearing  
to participate  
in decision

(5) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Appeal  
to court

**13.**—(1) Any party to proceedings before the Tribunal may appeal from the decision of the Tribunal to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Minister  
entitled to  
be heard

(2) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section.

Record to  
be filed  
in court

(3) The chairman of the Tribunal shall file with the Registrar of the Supreme Court the record of the proceedings before the Tribunal which, together with a transcript of the evidence before the Tribunal, if it is not part of the Tribunal's record, shall constitute the record in the appeal. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Powers of  
court on  
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Tribunal or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Tribunal for reconsideration by the Tribunal as the court considers proper and the court may substitute its opinion for that of the chief inspector or the Tribunal. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Effect of  
decision of  
Tribunal  
pending  
disposal  
of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Tribunal, unless the Tribunal otherwise directs, the decision of the Tribunal is effective until the appeal is disposed of. 1971, c. 50, s. 60 (3), *part*; 1978, c. 100, s. 16 (3).

Misleading  
advertising

**14.**—(1) No person shall make a misleading claim with respect to oleomargarine, either by word or design, in an advertisement or on a package in which oleomargarine is contained.

Reference  
to dairy  
product in  
advertise-  
ment

(2) No advertisement respecting oleomargarine and no package containing oleomargarine,

(a) shall state or imply that oleomargarine has a relation to any dairy product; or

(b) shall depict a dairy scene. R.S.O. 1970, c. 304, s. 7.



**15.**—(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations. 1971, c. 50, s. 60 (4). Inspectors,  
appointment

(2) No person shall obstruct any inspector in the performance of his duties or furnish any inspector with false information. R.S.O. 1970, c. 304, s. 8 (2). Obstruction  
of inspectors

**16.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for the issue of licences to manufacturers and wholesalers of oleomargarine and prescribing the form, term and conditions thereof and the fees to be paid therefor, and providing for the transfer, renewal, suspension or cancellation thereof;
  - (b) prescribing standards of quality for and the composition of oleomargarine;
  - (c) providing for the detention and confiscation of oleomargarine that does not comply with the provisions of this Act and the regulations;
  - (d) prescribing the powers and duties of inspectors;
  - (e) requiring and providing for the keeping of records by manufacturers and wholesalers;
  - (f) respecting the marking and labelling of packages in which oleomargarine is contained;
  - (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 304, s. 9.

**17.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for not more than six months, or to both. R.S.O. 1970, c. 304, s. 10. Offences and  
penalties





Government  
of Ontario

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# Ombudsman Act

Revised Statutes of Ontario, 1980  
Chapter 325

and

## **Regulation 697**

Revised Regulations of Ontario, 1980





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## CHAPTER 325

### Ombudsman Act

#### 1. In this Act,

Interpre-  
tation

(a) "governmental organization" means a Ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof;

(b) "minister" means a member of the Executive Council. R.S.O. 1980, c. 325, s. 1.

2. There shall be appointed, as an officer of the Legislature, an Ombudsman to exercise the powers and perform the duties prescribed by this Act. R.S.O. 1980, c. 325, s. 2.

3. The Ombudsman shall be appointed by the Lieutenant Governor in Council on the address of the Assembly. R.S.O. 1980, c. 325, s. 3.

Appoint-  
ment

4.—(1) Subject to this Act, the Ombudsman shall hold office for a term of ten years, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly.

Tenure of  
office and  
removal

(2) The Ombudsman may be reappointed for a further term or terms but shall retire upon attaining the age of sixty-five years. R.S.O. 1980, c. 325, s. 4.

Reappoint-  
ment  
and  
retirement

5.—(1) The Ombudsman shall devote himself exclusively to the duties of his office and shall not hold any other office under the Crown or engage in any other employment.

Nature of  
employment

(2) The *Public Service Act* and the *Public Service Superannuation Act* do not apply to the Ombudsman. R.S.O. 1980, c. 325, s. 5.

Idem  
R.S.O. 1980,  
cc 418, 419

6.—(1) The Ombudsman shall be paid a salary to be fixed by the Lieutenant Governor in Council.

Salary





Idem

(2) The salary of the Ombudsman shall not be reduced except on address of the Assembly.

Expenses

(3) The Ombudsman is entitled to be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the exercise of his functions under this Act.

Pension  
R.S.O. 1980,  
c. 236

(4) Part II of the *Legislative Assembly Retirement Allowances Act*, except sections 15 and 16, subsection 18 (5) and clause 19 (2) (a), applies, with necessary modifications, to the Ombudsman in the same manner as if he were a member of the Legislative Assembly and for the purpose,

(a) "average annual remuneration" means the average annual salary of the Ombudsman during any five years of his service, which years need not be consecutive, during which his salary was highest; and

(b) "remuneration" means the salary of the Ombudsman. R.S.O. 1980, c. 325, s. 6.

Temporary  
Ombudsman

7. In the event of the death or resignation of the Ombudsman while the Legislature is not in session or if he is unable or neglects to perform the functions of his office, the Lieutenant Governor in Council may appoint a temporary Ombudsman, to hold office for a term of not more than six months, who shall, while in such office, have the powers and duties and perform the functions of the Ombudsman and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix. R.S.O. 1980, c. 325, s. 7.

Staff

8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office and may determine their salary and remuneration and terms and conditions of employment.

Benefits

(2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,

(a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;



(b) plans for group life insurance, medical-surgical insurance or long-term income protection; and

(c) the granting of leave of absence,

apply to the permanent and full-time employees of the Ombudsman and where such benefits are provided for in regulations made under the *Public Service Act*, the Ombudsman, or any person authorized in writing by him, may exercise the powers and duties of a Minister or Deputy Minister or of the Civil Service Commission under such regulations. R.S.O. 1980, c. 418

(3) The *Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Ombudsman as though the Ombudsman were a commission designated by the Lieutenant Governor in Council under section 28 of that Act. Employees' superannuation benefits R.S.O. 1980, c. 419

9. The Ombudsman may lease such premises and acquire such equipment and supplies as are necessary for the efficient operation of his office. Premises and supplies R.S.O. 1980, c. 325, s. 9.

10. The salary of the Ombudsman and the expenses required for the operation of his office are payable out of moneys appropriated therefor by the Legislature. Salary and expenses R.S.O. 1980, c. 325, s. 10.

11. The accounts and financial transactions of the office of the Ombudsman shall be audited annually by the Provincial Auditor. Audit R.S.O. 1980, c. 325, s. 11.

12. The Ombudsman shall report annually upon the affairs of his office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual report R.S.O. 1980, c. 325, s. 12.

13.—(1) Before commencing the duties of his office, the Ombudsman shall take an oath, to be administered by the Speaker of the Assembly, that he will faithfully and impartially exercise the functions of his office and that he will not, except in accordance with subsection (2), disclose any information received by him as Ombudsman. Oath of office and secrecy

(2) The Ombudsman may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations. Disclosure R.S.O. 1980, c. 325, s. 13.





Application  
of Act

**14.** This Act does not apply,

- (a) to judges or to the functions of any court; or
- (b) to deliberations and proceedings of the Executive Council or any committee thereof. R.S.O. 1980, c. 325, s. 14.

Function of  
Ombudsman

**15.**—(1) The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his or its personal capacity.

Investiga-  
tion on  
complaint

(2) The Ombudsman may make any such investigation on a complaint made to him by any person affected or by any member of the Assembly to whom a complaint is made by any person affected, or of his own motion.

Powers  
paramount

(3) The powers conferred on the Ombudsman by this Act may be exercised notwithstanding any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Decisions  
not  
reviewable

(4) Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission,

- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired;
- (b) of any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Application  
to Divisional  
Court to  
determine  
jurisdiction

(5) If any question arises whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Divisional Court for a declaratory order determining the question. R.S.O. 1980, c. 325, s. 15.

Guidance  
rules

**16.**—(1) The Assembly may make general rules for the guidance of the Ombudsman in the exercise of his functions under this Act.



(2) All rules made under this section shall be deemed to be regulations within the meaning of the *Regulations Act*. Idem  
R.S.O. 1980,  
c. 446

(3) Subject to this Act and any rules made under this section, the Ombudsman may determine his procedures. Procedures  
R.S.O. 1980, c. 325, s. 16.

**17.**—(1) Every complaint to the Ombudsman shall be made in writing. Mode of  
complaint

(2) Notwithstanding any provision in any Act, where any letter written by an inmate of any provincial correctional institution or training school or a patient in a provincial psychiatric facility is addressed to the Ombudsman it shall be immediately forwarded, unopened, to the Ombudsman by the person for the time being in charge of the institution, training school or facility. To be  
forwarded  
R.S.O. 1980, c. 325, s. 17.

**18.**—(1) If, in the course of the investigation of any complaint within his jurisdiction, it appears to the Ombudsman, Ombudsman  
may  
refuse to  
investigate  
complaint

(a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Ombudsman by this Act, the Ombudsman may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Ombudsman, or, if in his opinion, Idem

(a) the subject-matter of the complaint is trivial;

(b) the complaint is frivolous or vexatious or is not made in good faith; or

(c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

(3) In any case where the Ombudsman decides not to investigate or further investigate a complaint he shall inform the complainant in writing of that decision, and may if he thinks fit state his reasons therefor. Complainant  
to be  
informed  
R.S.O. 1980, c. 325, s. 18.





Proceedings  
of  
Ombudsman

**19.**—(1) Before investigating any matter, the Ombudsman shall inform the head of the governmental organization affected of his intention to make the investigation.

Investigation to be in private

(2) Every investigation by the Ombudsman under this Act shall be conducted in private.

Where hearing necessary

(3) The Ombudsman may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any governmental organization or person, he shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel.

May consult minister

(4) The Ombudsman may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

Must consult minister

(5) On the request of any minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a minister, the Ombudsman shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 22 (1) or (2).

Breach of duty or misconduct

(6) If, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any governmental organization, he may refer the matter to the appropriate authority. R.S.O. 1980, c. 325, s. 19.

Evidence

**20.**—(1) The Ombudsman may from time to time require any officer, employee or member of any governmental organization who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person.

Examination under oath

(2) The Ombudsman may summon before him and examine on oath,

(a) any complainant;



- (b) any person who is an officer or employee or member of any governmental organization and who, in the Ombudsman's opinion, is able to give any information mentioned in subsection (1); or
- (c) any other person who, in the Ombudsman's opinion, is able to give any information mentioned in subsection (1),

and for that purpose may administer an oath.

(3) Subject to subsection (4), no person who is bound by the provisions of any Act, other than the *Public Service Act*, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure. Secrecy R.S.O. 1980, c. 418

(4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply information or answer any question or produce any document or thing relating only to the complainant, and it is the duty of the person to comply with that requirement. Idem

(5) Every person has the same privileges in relation to the giving of information, the answering of questions, and the production of documents and things as witnesses have in any court. Privileges

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person. Protection

(7) A person giving a statement or answer in the course of any inquiry or proceeding before the Ombudsman shall be informed by the Ombudsman of his right to object to answer any question under section 5 of the *Canada Evidence Act*. Idem under R.S.C. 1970, c. E-10

(8) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section. Prosecution





Fees

(9) Where any person is required by the Ombudsman to attend before him for the purposes of this section, the person is entitled to the same fees, allowances, and expenses as if he were a witness in the Supreme Court, and the provisions of any Act, regulation or rule in that behalf apply accordingly. R.S.O. 1980, c. 325, s. 20.

Disclosure  
of certain  
matters not  
to be  
required

**21.**—(1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing,

- (a) might interfere with or impede investigation or detection of offences;
- (b) might involve the disclosure of the deliberations of the Executive Council; or
- (c) might involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or thing to be produced.

Idem.

(2) Subject to subsection (1), the rule of law which authorizes or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman. R.S.O. 1980, c. 325, s. 21.

Procedure  
after  
investiga-  
tion

**22.**—(1) This section applies in every case where, after making an investigation under this Act, the Ombudsman is of opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.



(2) This section also applies in any case where the Ombudsman is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision. Idem

(3) If in any case to which this section applies the Ombudsman is of opinion, Ombudsman's report and recommendations

- (a) that the matter should be referred to the appropriate authority for further consideration;
- (b) that the omission should be rectified;
- (c) that the decision or recommendation should be cancelled or varied;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should have been given for the decision or recommendation; or
- (g) that any other steps should be taken,

the Ombudsman shall report his opinion, and his reasons therefor, to the appropriate governmental organization, and may make such recommendations as he thinks fit and he may request the governmental organization to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations and the Ombudsman shall also send a copy of his report and recommendations to the minister concerned.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of any governmental organization affected, may send a copy of the report and recommendations to the Premier, and may thereafter make such report to the Assembly on the matter as he thinks fit. Where no appropriate action taken

(5) The Ombudsman shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the governmental organization affected. Idem R.S.O. 1980, c. 325, s. 22.





Complainant  
to be  
informed  
of result  
of investiga-  
tion

**23.**—(1) Where, on any investigation following a complaint, the Ombudsman makes a recommendation under subsection 22 (3), and no action which seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation, and may make such comments on the matter as he thinks fit.

Idem

(2) The Ombudsman shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. R.S.O. 1980, c. 325, s. 23.

Proceedings  
not to be  
questioned  
or to be  
subject to  
review

**24.** No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court. R.S.O. 1980, c. 325, s. 24.

Proceedings  
privileged

**25.**—(1) No proceedings lie against the Ombudsman, or against any person holding any office or appointment under the Ombudsman, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Idem

(2) The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Idem

(3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court. R.S.O. 1980, c. 325, s. 25.

Power of  
entry of  
premises

**26.**—(1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any governmental organization and inspect the premises and carry out therein any investigation within his jurisdiction.

Notice of  
entry

(2) Before entering any premises under subsection (1), the Ombudsman shall notify the head of the governmental organization occupying the premises of his purpose.

Notice to  
desist

(3) The Attorney General may by notice to the Ombudsman exclude the application of subsection (1) to any specified premises or class of premises if he is satisfied that the exercise of the powers mentioned in subsection (1) might be prejudicial to the public interest.



(4) Where a notice is given under subsection (3) and in the opinion of the Ombudsman it is necessary to take an action<sup>Order of judge</sup> apparently prevented by the notice, the Ombudsman may apply to a judge of the High Court for an order setting aside the notice in respect of such action and, where the judge is satisfied that such action would not be prejudicial to the public interest, he may make the order. R.S.O. 1980, c. 325, s. 26.

**27.**—(1) The Ombudsman may in writing delegate to any person holding any office under him any of his powers<sup>Delegation of powers</sup> under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) Every delegation under this section is revocable at will<sup>Delegation is revocable</sup> and no such delegation prevents the exercise by the Ombudsman of any power so delegated.

(3) Every such delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit.<sup>Restrictions and conditions</sup>

(4) In the event that the Ombudsman by whom any such delegation is made ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Ombudsman.<sup>Continuing effect of delegation</sup>

(5) Any person purporting to exercise any power of the Ombudsman by virtue of a delegation under this section shall, when required so to do, produce evidence of his authority to exercise the power. R.S.O. 1980, c. 325, s. 27.<sup>Evidence of obligation</sup>

**28.** Every person who,

- <sup>Offences and penalties</sup>
- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the performance of his functions under this Act; or
  - (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
  - (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his functions under this Act,





is guilty of an offence and liable on conviction to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1980, c. 325, s. 28.

Rights  
under Act  
do not  
affect  
other rights,  
etc.

**29.** The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure. R.S.O. 1980, c. 325, s. 29.



## CHAPTER 326

## One Day's Rest in Seven Act

**1.** This Act is in force in every city and in every town having <sup>Application of Act</sup> a population of 10,000 or over. R.S.O. 1970, c. 305, s. 1.

**2.** Except as hereinafter mentioned, every employer of <sup>24 hours rest in every week</sup> labour, whether a person, partnership or corporation, engaged in carrying on any hotel business, restaurant or cafe shall allow every person, employed in any such hotel business, restaurant or cafe at least twenty-four consecutive hours of rest in every seven days, and wherever possible such twenty-four consecutive hours shall be on a Sunday. R.S.O. 1970, c. 305, s. 2.

**3.** Section 2 does not apply to, Exceptions

(a) watchmen, janitors, superintendents or foremen; or

(b) employees who are not employed for more than five hours in any one day,

but nothing in this Act authorizes any work on Sundays now prohibited by law. R.S.O. 1970, c. 305, s. 3.

**4.** Every employer who contravenes this Act is guilty of an <sup>Offence</sup> offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 305, s. 4.





## CHAPTER 327

## Ontario Agricultural Museum Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Agricultural Museum Advisory Board;
- (b) "donation" includes any gift, testamentary disposition, deed of trust or other form of contribution;
- (c) "Minister" means the Minister of Agriculture and Food;
- (d) "Museum" means the Ontario Agricultural Museum. 1975, c. 58, s. 1.

2. The Minister is responsible for the administration of this Act. 1975, c. 58, s. 2.

Administra-  
tion of  
Act

3.—(1) The Ontario Agricultural Museum is continued.

Museum  
continued

(2) The affairs of the Museum are under the control of the Minister and the Minister has all the powers necessary for the purpose of carrying out the objects of the Museum. 1975, c. 58, s. 3.

Powers of  
Minister

4.—(1) The Ontario Agricultural Museum Advisory Board is continued.

Board  
continued

(2) The Board shall consist of not fewer than five and not more than eleven members appointed by the Lieutenant Governor in Council, of whom at least two shall be members of the public service of Ontario.

Composition  
of Board

(3) The Lieutenant Governor in Council shall designate one of the members of the Board as chairman and one of them as vice-chairman of the Board.

Chairman  
and vice-  
chairman

(4) Members of the Board, other than full-time members of the public service of Ontario, shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Remunera-  
tion

Term of  
appointment

(5) A member of the Board may be appointed for a term not exceeding three years but may be reappointed for one or more further terms.

## Quorum

(6) A majority of the members of the Board constitutes a quorum. 1975, c. 58, s. 4.

Duties  
of Board

5. The object and purpose of the Board is to consider matters relating to the objects of the Museum and to make recommendations thereon to the Minister. 1975, c. 58, s. 5.

Chief  
executive  
officer  
and staff  
R.S.O. 1980,  
c. 418

6.—(1) A chief executive officer of the Museum may be appointed under the *Public Service Act* and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Museum.

Duties of  
chief  
executive  
officer

(2) The chief executive officer shall have the management and administration of the Museum, subject to the supervision and direction of the Minister. 1975, c. 58, s. 6.

Objects of  
Museum

7. The objects of the Museum are,

- (a) to display and illustrate to the public articles or documents relating to or used in agricultural or horticultural pursuits in Ontario;
- (b) to inform and stimulate the interest of the public in matters depicted by the Museum; and
- (c) to receive, acquire by purchase, donation or lease, hold, preserve, maintain, reconstruct, restore and manage things of historical or architectural interest relating to or used in agricultural or horticultural pursuits in Ontario. 1975, c. 58, s. 7.

Powers of  
Minister

8. The Minister is authorized,

- (a) to acquire property, whether by purchase, donation, lease, public subscription, grant, bequest or otherwise;
- (b) to enter into agreements with prospective donors with respect to any conditions governing the use of property;
- (c) to enter into agreements with any person respecting any matter within the objects of the Museum and to pay moneys to such persons pursuant to any such agreement;
- (d) to establish and operate facilities on the lands of the Museum for,

- (i) the sale of food, beverages, books, artifacts and other wares, and
- (ii) the parking of vehicles;
- (e) subject to the terms of any trust in connection with such property, to dispose of property by sale, lease, loan or any other manner, and to execute such deeds or other instruments as may be required to effect such disposal;
- (f) to conduct exhibitions, programs and special events on the lands of the Museum; and
- (g) to engage the services of such experts and other persons as are considered expedient. 1975, c. 58, s. 8.

**9.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may delegate in writing any power or duty granted to or vested in him under this Act to any officer or officers of the Museum, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation. Delegation  
of powers

(2) Notwithstanding the *Executive Council Act*, contracts and title documents respecting any matter under the administration or control of the Minister that are entered into by any other person duly authorized to enter into them enure to the benefit of the Crown and may be enforced as if entered into with the Crown. 1975, c. 58, s. 9. Enforcement  
of contracts  
R.S.O. 1980,  
c. 147

**10.** The fiscal year of the Museum begins on the 1st day of April in any year and ends on the 31st day of March in the following year. 1975, c. 58, s. 10. Fiscal  
year

**11.**—(1) Any moneys realized from donations, and the sale of property and artifacts under section 8, shall be paid into the Consolidated Revenue Fund and shall be held by the Treasurer of Ontario in trust for the Museum and section 7 of the *Financial Administration Act* applies to such moneys. Moneys to  
be held in  
trust for  
Museum  
R.S.O. 1980,  
c. 161

(2) Any moneys realized from grants shall be paid into the Consolidated Revenue Fund and, with the consent of the Treasurer of Ontario, may be held in trust for the Museum, in which case section 7 of the *Financial Administration Act* shall apply to such moneys. Moneys  
may be  
held in  
trust for  
Museum

(3) Any moneys to which subsection (1) applies or held in trust for the Museum under subsection (2) may be used by or Use of  
moneys

on behalf of the Museum for the purpose of purchasing such property and artifacts as are consistent with the objects of the Museum. 1978, c. 89, s. 1.

Annual  
report of  
Minister

**12.**—(1) The Minister shall make a report annually upon the affairs of the Museum and shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Reports by  
chief  
executive  
officer

(2) The chief executive officer of the Museum shall make a report annually to the Minister and such other reports as the Minister from time to time may require. 1975, c. 58, s. 12.

Audit

**13.** The accounts and financial transactions of the Museum shall be audited annually by the Provincial Auditor. 1975, c. 58, s. 13.

Regulations

**14.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the administration of the Museum;
- (b) appointing an executive committee of the Board and setting out its powers and duties;
- (c) regulating the meetings of the Board;
- (d) regulating and governing the use by the public of the facilities, property and equipment acquired for the purposes of the Museum;
- (e) requiring the payment of fees for the admission of the public or any class thereof to the Museum, and prescribing the amounts; and
- (f) respecting any other matters incidental to or necessary for carrying out the objects of the Museum.

Penalty

(2) Any person who contravenes any provision of the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500. 1975, c. 58, s. 14.

Moneys

**15.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 58, s. 15.



## CHAPTER 328

Ontario Deposit Insurance  
Corporation Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "by-laws" means the by-laws of the Corporation;
- (c) "Chairman" means the Chairman of the Board;
- (d) "Corporation" means the Ontario Deposit Insurance Corporation;
- (e) "deposit" means a deposit as defined by section 23;
- (f) "loan corporation" has the same meaning as it has in the *Loan and Trust Corporations Act*; R.S.O. 1980, c. 249
- (g) "member institution" means a loan corporation or trust company incorporated under the laws of Ontario and registered under the *Loan and Trust Corporations Act*;
- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "Registrar" means the Registrar under the *Loan and Trust Corporations Act*;
- (j) "trust company" has the same meaning as it has in the *Loan and Trust Corporations Act*. R.S.O. 1970, c. 307, s. 1; 1972, c. 1, s. 48 (1).

## PART I

## THE CORPORATION

2.—(1) The Ontario Deposit Insurance Corporation is continued, consisting of the persons who make up the Board. Corporation continued

(2) The Corporation is, for all purposes of this Act, an agent of Her Majesty, and its powers under this Act may be exercised only as an agent of Her Majesty. Crown agency

R.S.O. 1980,  
c. 54,  
not to apply

(3) The *Business Corporations Act* does not apply to the Corporation.

Property

(4) The Corporation has power to acquire, hold and alienate real and personal property.

Idem

(5) Property acquired by the Corporation is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Corporation.

Legal  
proceedings

(6) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Corporation on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Corporation in any court that would have jurisdiction if the Corporation were not an agent of Her Majesty. R.S.O. 1970, c. 307, s. 2.

Head  
office

**3.**—(1) The head office of the Corporation shall be at the City of Toronto and at such place therein as the Board shall from time to time determine.

Offices and  
agents

(2) The Corporation may establish offices or employ agents in any part of Ontario. R.S.O. 1970, c. 307, s. 3.

Board of  
directors

**4.**—(1) The Board shall consist of the person appointed as the Chairman and the persons who for the time being hold, respectively, the offices of the Deputy Treasurer of Ontario and Deputy Minister of Economics, the Comptroller of Finance, the Deputy Minister of Consumer and Commercial Relations, and the Registrar, and such other persons as may be appointed by the Lieutenant Governor in Council. 1972, c. 1, s. 48 (2).

Alternate  
director

(2) In the event of the absence or incapacity of any director of the Corporation other than the Chairman, the Minister may appoint, for a period not exceeding thirty days, an alternate for such director who shall serve on the Board during such absence or incapacity and who shall, while so serving, be deemed to be a member of the Board.

Travelling  
expenses

(3) A member of the Board shall be paid by the Corporation reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director, but no director of the Corporation, other than the Chairman, shall receive any other remuneration for his services on the Board. R.S.O. 1970, c. 307, s. 4 (2, 3).

Chairman

**5.**—(1) The Lieutenant Governor in Council shall appoint a person to be the Chairman.

(2) No person is eligible to be appointed or to continue as Chairman who, <sup>Disqualifi-</sup>  
<sup>cation</sup>

- (a) is not a Canadian citizen ordinarily resident in Ontario;
- (b) is a member of the Senate or House of Commons of Canada or a member of the Assembly;
- (c) is a director, officer or employee of a member institution; or
- (d) has reached the age of seventy years.

(3) The Chairman shall preside at all meetings of the Board, <sup>Functions</sup>  
but, where at any meeting the Chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the Chairman.

(4) The Chairman shall be paid by the Corporation such <sup>Remunera-</sup>  
remuneration as may be fixed by the Lieutenant Governor in <sup>tion</sup>  
Council. R.S.O. 1970, c. 307, s. 5.

**6.** The Chairman, the other members of the Board and the <sup>No personal</sup>  
officers and employees of the Corporation are not personally <sup>liability</sup>  
liable for anything done by the Board or any of them under the authority of this Act. R.S.O. 1970, c. 307, s. 6.

**7.**—(1) The authorized capital of the Corporation is <sup>Authorized</sup>  
\$5,000,000 divided into five shares of the par value of \$1,000,000 <sup>capital</sup>  
each.

(2) The Treasurer of Ontario shall subscribe for the five <sup>Subscription</sup>  
shares of the capital stock of the Corporation and shall pay the amount of such subscription out of the Consolidated Revenue Fund at such time or from time to time as the Corporation may require.

(3) The shares of the capital stock of the Corporation are <sup>Shares not</sup>  
not transferable and shall be registered in the books of the <sup>transferable</sup>  
Corporation in the name of the Treasurer of Ontario and held by him in trust for Her Majesty. R.S.O. 1970, c. 307, s. 7.

**8.** The financial year of the Corporation ends on the expira- <sup>Financial</sup>  
tion of the 31st day of December in each year. R.S.O. 1970, <sup>year</sup>  
c. 307, s. 8.

**9.** The accounts and financial transactions of the Corpora- <sup>Audit</sup>  
tion shall be audited annually by the Provincial Auditor.  
R.S.O. 1970, c. 307, s. 9.

Annual  
report

**10.** The Corporation shall be responsible to the Minister and shall, within three months after the termination of each financial year of the Corporation, transmit to the Minister a statement relating to the activities of the Corporation for that year, including the financial statements of the Corporation and the Provincial Auditor's report thereon, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 307, s. 10.

## Objects

**11.** The objects of the Corporation are,

- (a) to provide, for the benefit of persons having deposits with member institutions, insurance (herein referred to as "deposit insurance") against the loss of part or all of such deposits by making payments to such persons to the extent and in the manner authorized by this Act;
- (b) to provide the deposit insurance required by this Act for member institutions;
- (c) to examine into the affairs of member institutions for the purpose of obtaining information relative to deposit insurance; and
- (d) to accumulate, manage and invest a deposit insurance fund and any other funds accumulated as the result of the operations of the Corporation. R.S.O. 1970, c. 307, s. 11.

## Powers

**12.** The Corporation may do all things necessary or incidental to the objects of the Corporation and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects,

- (a) acquire assets from a member institution, make loans or advances to a member institution and take security therefor and guarantee loans to or deposits with a member institution, for the purpose of reducing a risk to the Corporation or reducing or averting a threatened loss to the Corporation;
- (b) act under section 34 when duly authorized and appoint persons, whether employees or not of the Corporation, to carry out any or all of the functions of the Corporation;



- (c) assume the costs of a winding up of a member institution when the Corporation is appointed to act as a liquidator in the winding up or assume the costs of the receiver when the Corporation is appointed to act as such and charge such costs of winding up or receivership to the Accumulated Net Earnings of the Corporation;
- (d) acquire assets of a member institution from a liquidator or receiver thereof;
- (e) make an advance for the purpose of paying a claim, against a member institution for which the Corporation is acting as receiver or liquidator, in respect of any insured deposit and become subrogated as an unsecured creditor for the amount of such advance;
- (f) make or cause to be made such inspections of a member institution as may be authorized under this Act; and
- (g) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation. R.S.O. 1970, c. 307, s. 12.

**13.—**(1) The Board shall administer the affairs of the Corporation in all things and make, or cause to be made, for the Corporation any description of contract that the Corporation may by law enter into; and, subject to the approval of the Lieutenant Governor in Council, the Board may make by-laws for,

Powers and  
duties of  
Board

- (a) the administration, management and control of the property and affairs of the Corporation;
- (b) the functions, duties and remuneration of all officers, agents and employees of the Corporation;
- (c) the appointment or disposition of any special committees from time to time created by the Board for the purposes of the Corporation;
- (d) the issue of the shares of the Corporation;
- (e) the declaration and payment of dividends;
- (f) determining the seal of the Corporation;
- (g) the time and place for the holding of meetings of the directors, the quorum at such meetings and the procedure in all things at such meetings;

- (h) prescribing standards of sound business and financial practices for member institutions;
- (i) authorizing and controlling the use by member institutions of marks, signs, advertisements or other devices indicating that deposits with such institutions are insured by the Corporation; and
- (j) the conduct in all other particulars of the affairs of the Corporation.

**Powers of inspection**R.S.O. 1980,  
c. 411

(2) For the purpose of carrying out any inspection authorized by this Act, the Board may appoint any person to carry out any such inspection, and the person so appointed has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inspection as if were an inquiry under that Act. R.S.O. 1970, c. 307, s. 13; 1971, c. 49, s. 18.

**Borrowing powers**

**14.**—(1) Subject to the approval of the Lieutenant Governor in Council and to section 21, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may consider requisite for any of the purposes of the Corporation by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine.

**Purposes of Corporation**

(2) The purposes of the Corporation, without limiting the generality thereof, include,

- (a) the carrying out of the objects of the Corporation;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money borrowed or raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances;
- (d) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation; and
- (e) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the principal amount thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Sale, etc.,  
of Cor-  
poration's  
securities

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized is conclusive evidence to that effect.

Authoriza-  
tion

(5) The notes, debentures and other securities of the Corporation shall be executed in such manner as the Corporation, with the approval of the Lieutenant Governor in Council, may determine.

Execution  
of securities

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note, and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. R.S.O. 1970, c. 307, s. 14.

Mechanical  
reproduc-  
tion of seal  
and  
signature  
authorized

**15.** Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation may determine at the time of the issue thereof. R.S.O. 1970, c. 307, s. 15.

Securities of  
Corporation  
redeemable  
in advance

**16.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act.

Guarantee  
of payment  
by Ontario

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Form of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon Ontario and is not open to question upon any ground whatsoever.

Validity of  
guaranty

Guaranteed  
debentures,  
etc., to be  
indefeasible

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 307, s. 16.

Trustee,  
etc., invest-  
ments in  
debentures

**17.** Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1970, c. 307, s. 17.

Sale of  
Corpora-  
tion's  
securities  
to Ontario  
and  
provincial  
advances to  
Corporation  
authorized

**18.—(1)** The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

Idem

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 307, s. 18.

Investment  
of funds

**19.** The Corporation may, in its discretion, invest any funds not required in carrying out its objects in debentures or other securities of Canada or of Ontario; or in any securities guaranteed as to principal and interest by either of them. R.S.O. 1970, c. 307, s. 19.

Temporary  
loans

**20.—(1)** Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation borrow by way of temporary loan from any chartered bank or from any person such sums as the Corporation considers requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Idem

(2) For the purposes of subsection (1), the Corporation may pledge as security notes, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same or may pledge as security bonds, debentures or other securities owned by the Corporation or otherwise give such security as the Corporation may determine, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection (1) or this subsection may be executed in such manner as the Corporation may determine. R.S.O. 1970, c. 307, s. 20.



**21.**—(1) The Corporation shall not borrow or raise by way of loan any sums of money if, after giving effect to such borrowing or loan, the aggregate principal amount of the outstanding debentures, bills and notes issued by the Corporation, of temporary loans raised by the Corporation and of outstanding advances to the Corporation from the Treasurer of Ontario, would exceed \$250,000,000.

Limit of borrowing powers

(2) Notwithstanding subsection (1), the Corporation shall not question the validity of any borrowings by it, or of any debentures, bills or notes issued by it, all of which shall be binding upon the Corporation. R.S.O. 1970, c. 307, s. 21.

Idem

## PART II

### MEMBER INSTITUTIONS

**22.**—(1) Every member institution is authorized to apply to the Canada Deposit Insurance Corporation for deposit insurance under the *Canada Deposit Insurance Corporation Act*.

Applications for Federal deposit insurance authorized  
R.S.C. 1970, c. C-3

(2) The Minister on behalf of Ontario may enter into agreements with the Canada Deposit Insurance Corporation for any purpose in connection with the issuing of policies of deposit insurance to loan corporations and trust companies incorporated under the laws of Ontario.

Federal-Provincial agreements authorized

(3) Any such agreement may contain an undertaking by Ontario to indemnify the Canada Deposit Insurance Corporation for any loss to that corporation occurring by reason of its obligation to make payment in respect of any deposit insured by a policy of deposit insurance where the obligation arises during the period specified for that purpose in such agreement. R.S.O. 1970, c. 307, s. 22.

Idem

## PART III

### DEPOSIT INSURANCE

**23.**—(1) No loan corporation or trust company registered under the *Loan and Trust Corporations Act* shall, after the 30th day of June, 1967, accept, receive or issue deposits unless it holds a certificate or policy of deposit insurance issued by the Canada Deposit Insurance Corporation or unless its deposits are insured in some other manner approved by the Lieutenant Governor in Council.

Deposit insurance required  
R.S.O. 1980, c. 249

(2) In the case of any particular loan corporation or trust company, the Lieutenant Governor in Council may extend the time for effecting the insurance mentioned in subsection (1). R.S.O. 1970, c. 307, s. 23.

Extension of time

Deposit  
defined

**24.** For the purposes of this Act, a deposit is,

R.S.O. 1980,  
c. 249

- (a) money deposited with a loan corporation or trust company registered under the *Loan and Trust Corporations Act* in respect of which such corporation or company is liable to the depositors; or
- (b) money received under section 116 of the *Loan and Trust Corporations Act* by a trust company registered under that Act or a debenture or like obligation issued by a loan corporation registered under that Act, but not including any money so received or debenture or like obligation so issued on or after the 17th day of April, 1967, unless the trust company or loan corporation, as the case may be, is obligated, or may by demand of the depositor become obligated, to repay the money so received or the debenture or like obligation so issued on or before the fifth anniversary of the date of receipt of such money or the fifth anniversary of the date of issue of such debenture or like obligation, as the case may be. R.S.O. 1970, c. 307, s. 24.

Deposits  
insured

**25.**—(1) All deposits with a member institution that does not hold a policy of deposit insurance issued by the Canada Deposit Insurance Corporation are insured by the Corporation except,

- (a) a deposit that is not payable in Canada or in Canadian currency;
- (b) so much of any one deposit, including interest thereon, as exceeds \$20,000; and
- (c) deposits insured under terminated or cancelled deposit insurance under section 28 of the *Canada Deposit Insurance Corporation Act*.

R.S.C. 1970,  
c. C-3

Payment

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by the Corporation, the Corporation as soon as possible after the obligation arises shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the member institution with which the deposit was made,

- (a) by making available to such person a transferred deposit with another member institution for so much of his deposit as is insured by the Corporation; or
- (b) by paying such person a sum equal to so much of his deposit as is insured by the Corporation.

(3) Payment under this section by the Corporation in respect of any deposit insured by the Corporation discharges the Corporation from all liability in respect of that deposit, and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made.

Effect of  
payment

(4) Where the Corporation makes a payment under this section in respect of any deposit with a member institution, the Corporation is subrogated for so much of that deposit as is insured by the Corporation to all the rights and interest of the depositor as against that member institution. R.S.O. 1970, c. 307, s. 25.

Subrogation

**26.**—(1) Except as provided in section 25, the deposits with a member institution that is carrying on business on the 10th day of February, 1967 are insured by the Corporation from and after that date in accordance with this Act.

Commence-  
ment of  
insurance,  
existing  
member  
institutions

(2) Except as provided in section 25, when a member institution commences business on or after the 10th day of February, 1967, the deposits with such member institution are insured by the Corporation in accordance with this Act on and after the day on which such member institution commences business. R.S.O. 1970, c. 307, s. 26.

Idem,  
future  
member  
institutions

**27.** A premium assessed by the Corporation against a member institution for the purposes of this Act constitutes a debt owing to Her Majesty in right of Ontario, and the amount thereof together with any interest levied by the Corporation as an overdue charge is recoverable by the Corporation by action in any court of competent jurisdiction. R.S.O. 1970, c. 307, s. 27.

Premiums  
are debts

**28.** All premiums received by the Corporation shall be credited to a Deposit Insurance Fund to be maintained by the Corporation. R.S.O. 1970, c. 307, s. 28.

Disposition  
of premiums

**29.**—(1) The Corporation shall each year assess and collect from each member institution an annual premium equal to the greater of,

Assessment  
and collec-  
tion of  
premiums

(a) \$500; or

(b) one-thirtieth of 1 per cent of the total amount of such deposits as are deposited with the member institution on the date as of which the return mentioned in subsection (2) is filed with the Corporation and as are insured by the Corporation.

Annual  
return

(2) Each member institution shall file with the Corporation annually a return to be certified by the member institution and submitted in such form as of such date and at such time as the Corporation may require.

Payable in  
instalments

(3) One-half of the premium payable by a member institution shall be paid to the Corporation on or before the 30th day of June in the year in which the annual return is to be filed, and the balance shall be paid to the Corporation, without interest, on or before the 31st day of December in that year.

Interest

(4) Notwithstanding anything in this section, the Corporation may charge interest not in excess of 10 per cent per annum on the amount of any premium or any part thereof not paid on or before the due date thereof.

Repayments  
of premiums  
authorized

(5) Notwithstanding anything in this Act, the Lieutenant Governor in Council may authorize and direct the repayment to a member institution of the whole or any part of any premium paid to the Corporation. R.S.O. 1970, c. 307, s. 29.

Accumulated  
Net  
Earnings

**30.**—(1) The Corporation shall maintain an account to be known as the Accumulated Net Earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all operating expenses, losses and specific provisions for losses in respect of insurance and losses on sales of securities.

Separate  
item in  
report

(2) The Accumulated Net Earnings shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from the Deposit Insurance Fund. R.S.O. 1970, c. 307, s. 30.

Inspection  
of books

**31.**—(1) The Registrar shall, on behalf of the Corporation, examine the affairs of each member institution at such times as the Corporation may require but no less frequently than once in each year.

Examina-  
tion of  
affairs  
authorized

(2) The Registrar, at the request of the Canada Deposit Insurance Corporation and on such terms and conditions as may be approved by the Minister, may examine the affairs of any loan corporation or trust company registered under the *Loan and Trust Corporations Act* and report thereon to the Canada Deposit Insurance Corporation.

R.S.O. 1980,  
c. 249

Powers of  
Registrar

(3) In any examination authorized under subsection (2), the Registrar has and may exercise any of the powers given him by subsections 154 (3), (4) and (5) of the *Loan and Trust Corporations Act*. R.S.O. 1970, c. 307, s. 31.



**32.**—(1) After each examination of the affairs of a member institution, the Registrar shall report to the Corporation whether or not, in his opinion, there has been any change in the circumstances of the member institution that might materially affect the position of the Corporation as an insurer and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

Contents of  
examiner's  
report

- (a) the returns made by the member institution and on which payment of its premiums were based are correct;
- (b) the operations of the member institution are being conducted in accordance with sound business and financial practices; and
- (c) the member institution is in a satisfactory financial condition.

(2) Each such report shall further state whether or not, in the opinion of the Registrar, there has been any breach of the provisions of the *Loan and Trust Corporations Act* and in particular, without limiting the generality of the foregoing, whether or not, in his opinion, there has been any breach of the provisions of the *Loan and Trust Corporations Act* with respect to,

Idem

R.S.O. 1980,  
c. 249

- (a) borrowing powers;
- (b) reserves required on deposit under sections 108 and 121 of that Act; and
- (c) investments authorized by that Act. R.S.O. 1970, c. 307, s. 32.

**33.**—(1) Where in the opinion of the Corporation, whether such opinion is based upon consideration of a report from the Registrar or upon any other report or information, a member institution,

Reporting  
of defects  
and  
breaches

- (a) is or may be following unsound business or financial practices; or
- (b) is or may be in breach of any provision of this Act;  
or
- (c) is or may be in breach of any provision of the *Loan and Trust Corporations Act*; or
- (d) is not or may not be in a satisfactory financial condition,

the Corporation shall, in writing and by registered mail, report the same to the president or chairman of the board of directors of the member institution and he shall cause such report to be presented to a meeting of the directors of the member institution within a period of thirty days after its date of receipt and such report shall be incorporated in the minutes of that meeting of directors.

Copy to  
Minister

(2) The Corporation shall deliver a copy of each such report to the Minister. R.S.O. 1970, c. 307, s. 33.

Rehabilita-  
tion  
proceedings

**34.**—(1) Where the Registrar has reported to the Corporation that, in his opinion, the affairs of a member institution are not in a satisfactory financial condition and the Corporation has reported that, in its opinion, the affairs of the member institution are not in a satisfactory financial condition and where the Minister, after a reasonable time has been given to the member institution to be heard by him and upon such further inquiry and investigation as he sees fit to make, reports to the Lieutenant Governor in Council that he agrees with the opinions of the Registrar and of the Corporation, the Lieutenant Governor in Council may, if the Lieutenant Governor in Council also agrees with the opinions, order the Corporation forthwith to take possession of the property of the member institution and to conduct the business thereof and to take such steps as in its opinion may be taken toward the removal of the causes and conditions that have made such proceedings necessary.

Idem

(2) The Corporation shall thereupon take possession of the property of such member institution and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions that have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing,

- (a) the Corporation has all the powers of the board of directors of the member institution;
- (b) the Corporation has power to exclude the member institution and its servants and agents from the property and business of the member institution; and
- (c) the Corporation has power to carry on, manage and conduct the operations of the member institution and in the name of the member institution to preserve, maintain, realize, dispose of and add to the property of the member institution, to receive the incomes and revenues of the member institution and to exercise all the powers of the member institution.

(3) Upon the request of a member institution and with the approval of the Lieutenant Governor in Council, the Corporation may with respect to such member institution exercise the powers mentioned in subsection (2). R.S.O. 1970, c. 307, s. 34. <sup>Idem. upon request</sup>

**35.** If at any time the Corporation considers that further efforts to place the affairs of a member institution in a satisfactory financial condition would be futile or that the affairs of the member institution have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the member institution to it, and upon such return the powers of the Corporation under subsection 34 (2) as a result of the order of the Lieutenant Governor in Council under which the Corporation took possession of the property of the member institution terminate. R.S.O. 1970, c. 307, s. 35. <sup>Where efforts futile</sup>

**36.—**(1) A member institution may appeal to the Divisional Court from any order made by the Lieutenant Governor in Council under subsection 34 (1) within thirty days after the making of such order and the delivery of a copy thereof to an officer of the member institution in accordance with the rules of court. R.S.O. 1970, c. 307, s. 36 (1), *revised*. <sup>Appeal</sup>

(2) The Minister shall certify to the Registrar of the Supreme Court, <sup>Record</sup>

(a) the reports of the Registrar and of the Corporation that have been reviewed by the Minister and by the Lieutenant Governor in Council;

(b) the record of the reviews; and

(c) all written submissions to the Registrar and to the Lieutenant Governor in Council and other material that in the opinion of the Minister are relevant to the appeal. R.S.O. 1970, c. 307, s. 36 (2).

(3) The Attorney General may designate counsel to assist the court upon the hearing of any appeal taken under this section. R.S.O. 1970, c. 307, s. 36 (3); 1972, c. 1, s. 9 (7). <sup>Counsel</sup>

(4) Where an appeal is taken under this section, the court may by order direct the Corporation to take such action as the court considers proper and thereupon the Corporation shall act accordingly. <sup>Order</sup>

(5) Notwithstanding the final disposition of an appeal under this section, the Minister and the Lieutenant Governor in <sup>Further decision</sup>

Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. R.S.O. 1970, c. 307, s. 36 (4, 5).

## PART IV

### OFFENCES

Holding  
out

**37.**—(1) Every person, other than a member institution, who, by any written or oral representation of any kind, advertises or holds out any company or corporation as being insured or approved for insurance by the Corporation is guilty of an offence.

Advertising

(2) Every member institution that makes any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the manner and on the occasions prescribed by the by-laws is guilty of an offence.

False  
returns,  
etc.

(3) Every director, officer or employee of a member institution and every auditor thereof who knowingly prepares, signs, approves or concurs in any account, statement, return, report or document respecting the affairs of the member institution required by the Registrar, by the Minister or by the Corporation for the purposes of this Act and containing any false or deceptive information or any return that does not present fairly information required by the Registrar, the Minister or the Corporation for the purposes of this Act is guilty of an offence.

Failure to  
present  
report,  
etc.

(4) Every person who, being a president or chairman of the board of directors of a member institution, fails or neglects to present to a meeting of the directors of the member institution, as required by section 33, a report of the Corporation made under that section is guilty of an offence, and, if the directors of the member institution fail or neglect to incorporate such report in the minutes of a meeting of the directors as required by section 33, each director present at such meeting is guilty of an offence.

Penalties,  
individuals

(5) Every person, other than a corporation or company, guilty of an offence under this section is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

Idem,  
corporations

(6) Every corporation or company guilty of an offence under this section is on conviction liable to a fine of not more than \$25,000. R.S.O. 1970, c. 307, s. 37.



## CHAPTER 329

## Ontario Economic Council Act

**1.** In this Act,Interpre-  
tation

- (a) "Council" means the Ontario Economic Council;
- (b) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act. R.S.O. 1970, c. 309, s. 1.

**2.**—(1) The Ontario Economic Council is continued, consisting of not more than twenty-one members appointed by the Lieutenant Governor in Council, of whom one shall be designated as chairman.

Establish-  
ment

(2) The Council may contract and may sue and be sued in its own name, and the members thereof are not personally liable upon any contract made by the Council. R.S.O. 1970, c. 309, s. 2.

Power to  
contract  
and sue

**3.**—(1) The chairman of the Council shall be appointed to hold office for a term of not more than five years.

Appoint-  
ment,  
chairman

(2) Each of the members of the Council shall be appointed to hold office for a term of not more than three years, except that of those first appointed not less than one-third shall be appointed for a term of one year and not less than one-third shall be appointed for a term of three years.

members

(3) A retiring chairman or other member of the Council is eligible for reappointment to the Council in the same or another capacity. R.S.O. 1970, c. 309, s. 3.

Reappoint-  
ments

**4.** It is the duty of the Council to advise and make recommendations to the Executive Council or any member thereof on methods for,

Duties of  
Council

- (a) encouraging the maximum development of the human and material resources of Ontario;
- (b) supporting the advancement of all sectors of Ontario; and
- (c) fostering conditions for the realization of higher standards of living for the people of Ontario. R.S.O. 1970, c. 309, s. 4.

Further  
duties of  
Council

**5. The Council may,**

- (a) conduct socio-economic studies in any area considered by the Council to be of concern;
- (b) cause to be published such studies and reports as are prepared by or for the Council;
- (c) co-operate and maintain liaison with the Economic Council of Canada and bodies in other jurisdictions corresponding to the Council;
- (d) create an awareness and public understanding of provincial socio-economic issues by holding seminars and conferences;
- (e) create such committees as it considers desirable for the carrying out of its objectives; and
- (f) undertake such other duties as are assigned by the Lieutenant Governor in Council. R.S.O. 1970, c. 309, s. 5.

Salaries:  
chairman

**6.—(1)** The chairman of the Council shall receive such remuneration as the Lieutenant Governor in Council may determine.

deputy  
chairman

(2) The Minister may designate a member of the Council to be the deputy chairman who shall act in the absence of the chairman and may be paid such *per diem* allowance as the Lieutenant Governor in Council may determine.

members

(3) Members of the Council, other than the chairman and deputy chairman, shall serve without remuneration but all members shall receive their reasonable travelling and living expenses while absent from their ordinary place of residence in the course of their duties under this Act.

Remunera-  
tion for  
additional  
duties

(4) Notwithstanding subsection (3), a member of the Council, other than the chairman and deputy chairman, may for any period during which he performs, with the approval of the Council, any duties on behalf of the Council in addition to his ordinary duties as a member thereof, be paid such remuneration therefor as the Lieutenant Governor in Council may determine.

Staff

(5) Such officers and employees as are necessary for the proper conduct of the work of the Council may be appointed under the *Public Service Act*. R.S.O. 1970, c. 309, s. 6.

**7.**—(1) The Council shall meet at least five times a year at <sup>Meetings</sup> the discretion of the chairman.

(2) A majority of the members constitutes a quorum of the <sup>Quorum</sup> Council. R.S.O. 1970, c. 309, s. 7.

**8.** The expenses of the Council in carrying out its objectives <sup>Expenses of</sup> shall be paid out of the moneys appropriated therefor by the <sup>Council</sup> Legislature. R.S.O. 1970, c. 309, s. 8.





## CHAPTER 330

### Ontario Education Capital Aid Corporation Act

#### 1. In this Act,

Interpre-  
tation

- (a) "Corporation" means The Ontario Education Capital Aid Corporation;
- (b) "municipality" means a metropolitan, district or regional municipality, county, city, town, village, township, improvement district or school board, and "municipal" has a corresponding meaning;
- (c) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 310, s. 1; 1973, c. 64, s. 1.

**2.**—(1) The Ontario Education Capital Aid Corporation is continued as a corporation without share capital, consisting of not fewer than five and not more than seven members appointed by the Lieutenant Governor in Council.

Corporation  
continued

(2) The Lieutenant Governor in Council shall designate one member of the Corporation to be chairman and one member to be vice-chairman of the Corporation.

Chairman,  
vice-  
chairman

(3) The Corporation shall have a seal, which shall be adopted by resolution.

Seal

(4) A majority of the members of the Corporation constitutes a quorum at meetings.

Quorum

(5) The *Corporations Act* does not apply to the Corporation. R.S.O. 1970, c. 310, s. 2.

R.S.O. 1980,  
c. 95  
not to apply

**3.** The object of the Corporation is to purchase from municipalities debentures issued by them for,

Object

(a) school board undertakings;

(b) grants to an association under section 113 of the *Municipal Act*. R.S.O. 1970, c. 310, s. 3; 1973, c. 64, s. 2.

R.S.O. 1980,  
c. 302

## Management

4.—(1) The affairs of the Corporation are under the management and control of the members for the time being of the Corporation, and the chairman shall preside at all meetings of the Corporation and, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

## Administration

(2) The Corporation shall be assisted in the administration of its affairs by such officers and other employees in the public service of the Province of Ontario as the Treasurer of Ontario may assign for the purpose.

## Remuneration

(3) The Corporation may pay such of its members as are not officers in the public service of the Province of Ontario such remuneration and expense allowance as are from time to time fixed by the Lieutenant Governor in Council. R.S.O. 1970, c. 310, s. 4.

## Borrowing powers

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may consider requisite for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways,

- (a) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine; and
- (b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in other manner whatsoever as the Corporation may determine.

## Purposes of Corporation

(2) The purposes of the Corporation, without limiting the generality thereof, include,

- (a) the carrying out of the object of the Corporation mentioned in section 3;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by the Province of Ontario to the Corporation

or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances; and

- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof, and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Sale, etc.,  
of Cor-  
poration's  
securities

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purpose of the Corporation in the amount authorized is conclusive evidence to that effect.

Authoriza-  
tion

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the treasurer or any other officer of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the treasurer or any other officer of the Corporation.

Sealing.  
signing.  
etc.

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. R.S.O. 1970, c. 310, s. 5.

Mechanical  
reproduc-  
tion of  
seal and  
signature  
authorized

6. Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation may determine at the time of the issue thereof. R.S.O. 1970, c. 310, s. 6.

Securities of  
Corporation  
redeemable  
in advance

7. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the Corporation may provide for its replacement on such terms as to evidence and as to indemnity as the Corporation may require. R.S.O. 1970, c. 310, s. 7.

Lost  
debentures

Guarantee  
of payment  
by Province

**8.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by, or of any temporary loan made to, the Corporation under the authority of this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guaranteed  
debentures,  
etc., to be  
indefeasible

(4) Any debenture, bill or note issued by or any temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 310, s. 8.

Trustees,  
etc.,  
investments  
in debentures

**9.** Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1970, c. 310, s. 9.

Purchase of  
municipal  
debentures

**10.**—(1) The Corporation, with the approval of the Lieutenant Governor in Council, may from time to time purchase from any municipality debentures issued by the municipality for a purpose specified in section 3.

Approval  
and valida-  
tion  
required

(2) The Corporation shall not purchase any municipal debentures under the authority of this Act until,

R.S.O. 1980,  
c. 347

(a) the Ontario Municipal Board has issued its order pursuant to section 64 of the *Ontario Municipal Board Act* authorizing the municipality to proceed with the undertaking with respect to which the debentures are required; and

(b) the municipality has had the debentures validated by the Ontario Municipal Board under sections 58 to 60 of the *Ontario Municipal Board Act*.

Rate of  
interest

(3) The effective rate of interest at which the Corporation purchases debentures shall be as determined from time to time by the Lieutenant Governor in Council. R.S.O. 1970, c. 310, s. 10.



**11.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor, and he shall make an annual report of the audit to the Treasurer of Ontario, and the Treasurer shall table the report in the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 310, s. 11.

**12.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

Sale of  
Corporation's  
securities to  
Province and  
provincial  
advances to  
Corporation  
authorized

(a) to purchase any debentures, bills or notes of the Corporation; and

(b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 310, s. 12.

Idem

**13.** The Lieutenant Governor in Council may make such regulations with respect to the Corporation as he considers necessary for carrying out the purposes of this Act. R.S.O. 1970, c. 310, s. 13.

Regulations

**14.** The Treasurer of Ontario shall administer this Act and any regulations made under this Act. R.S.O. 1970, c. 310, s. 14.

Adminis-  
tration



## CHAPTER 331

Ontario Educational  
Communications Authority Act

## 1. In this Act,

Interpre-  
tation

- (a) "Authority" means The Ontario Educational Communications Authority;
- (b) "Board" means the board of directors of the Authority;
- (c) "Minister" means the Minister of Culture and Recreation. R.S.O. 1970, c. 311, s. 1; 1972, c. 1, s. 16 (1); O. Reg. 53/76.

2.—(1) The Ontario Educational Communications Authority is continued as a corporation without share capital, consisting of thirteen members, one of whom shall be the Chairman and no members shall be civil servants. R.S.O. 1970, c. 311, s. 2 (1); 1974, c. 12, s. 1.

Authority  
continued

(2) The members of the Authority, including the Chairman, shall be appointed by the Lieutenant Governor in Council to hold office for not more than three years but may be reappointed by the Lieutenant Governor in Council, and at least three members shall retire each year.

Appointment  
of members

(3) The members for the time being of the Authority form and are its board of directors.

Board of  
directors

(4) The Chairman of the Authority shall be the Chairman of the Board, and the Lieutenant Governor in Council may from time to time designate one of the other members as Vice-Chairman of the Board and prescribe his duties.

Chairman  
and Vice-  
Chairman of  
the Board

(5) A director, other than the Chairman, may be paid such fees for attendance at meetings of the Authority as may be fixed by the Lieutenant Governor in Council, and all directors are entitled to be paid their actual travelling and living expenses necessarily incurred on the business of the Authority.

Fees and  
expenses

(6) Seven directors constitute a quorum for meetings of the Board.

Quorum

## Meetings

(7) Meetings of the Board or of the members of the Authority shall be held at the call of the Chairman, or in the absence or incapacity of the Chairman or if the office of Chairman is vacant, in such other manner as may be prescribed by the by-laws of the Authority, but in no case shall more than four months elapse between meetings of the Board.

## Head Office

(8) The head office of the Authority shall be at The Municipality of Metropolitan Toronto, or such other place in Ontario as the Lieutenant Governor in Council may designate.

## Fiscal year

(9) The fiscal year of the Authority begins on the 1st day of April and ends on the 31st day of March in the following year. R.S.O. 1970, c. 311, s. 2 (2-9).

## Objects of Authority

**3.** The objects of the Authority are,

- (a) to initiate, acquire, produce, distribute, exhibit or otherwise deal in programs and materials in the educational broadcasting and communications fields;
- (b) to engage in research in those fields of activity consistent with the objects of the Authority under clause (a); and
- (c) to discharge such other duties relating to educational broadcasting and communications as the Board considers to be incidental or conducive to the attainment of the objects mentioned in clauses (a) and (b). R.S.O. 1970, c. 311, s. 3.

## Acquisition of land

**4.** Subject to the approval of the Lieutenant Governor in Council, the Authority may,

- (a) acquire by purchase, lease or otherwise; and
- (b) sell or otherwise dispose of,

any land or any interest in land. R.S.O. 1970, c. 311, s. 4.

## By-laws, making

**5.—(1)** Subject to subsections (2) and (3), the Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Authority.

## Filing

(2) All by-laws of the Authority shall be filed with the Minister provided, however, that no by-law shall take effect until the expiration of two weeks from the date of filing.



(3) The Lieutenant Governor in Council may amend or <sup>Amendment</sup> revoke any by-law provided that any such amendment or revocation shall not prejudice the rights of any person dealing with the Authority. R.S.O. 1970, c. 311, s. 5.

**6.**—(1) The Chairman is the chief executive officer of the <sup>Chief executive officer</sup> Authority and shall be paid such salary as the Lieutenant Governor in Council determines.

(2) The Board may employ such persons and retain such <sup>Staff</sup> technical and professional consultants as it considers necessary for the conduct of the affairs of the Authority at such remuneration and upon such terms as the Board approves.

(3) The officers and employees of the Authority are not Crown <sup>Application of</sup> employees, and the provisions of the *Labour Relations Act* apply <sup>R.S.O. 1980, c. 228</sup> to them and to the Authority. R.S.O. 1970, c. 311, s. 6.

**7.**—(1) The Authority has the following powers incidental <sup>Powers of Authority</sup> and ancillary to its objects,

- (a) to enter into operating agreements with the appropriate agency or agencies of the Government of Canada and with broadcasting stations or networks for the broadcasting of educational programs;
- (b) to enter into contracts with any person in connection with the production, presentation or distribution of the programs and materials of the Authority;
- (c) to acquire, publish, distribute and preserve, whether for a consideration or otherwise, such audio-visual materials, papers, periodicals and other literary matter as relate to any of the objects of the Authority;
- (d) to make arrangements or enter into agreements with any person for the use of any rights, privileges or concessions that the Authority may consider necessary for the purposes of carrying out its objects.

(2) Except as provided in subsection (3), subsection 23 (1) of <sup>Application of</sup> the *Corporations Act* applies to the Authority. <sup>R.S.O. 1980, c. 95</sup>

(3) Clauses 23 (1) (a), (b), (d), (e), (g), (h), (j), (k), (m), (p), (q), <sup>Idem</sup> (r), (t), (u) and (v) and sections 274 and 275 of the *Corporations Act* do not apply without the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 311, s. 7.

Employee  
benefits

**8.** The Authority may provide compensation for services performed by way of remuneration and employee benefits which the Authority may from time to time consider appropriate, to or for the benefit of any of the persons mentioned in section 6, or any class or classes of them, as well as any other persons who may be entitled thereunder, out of a fund or funds comprising contributions made by such persons, or any class or classes thereof, or by the Authority, or both or otherwise. R.S.O. 1970, c. 311, s. 8.

Advisory  
committees

**9.** The Authority shall appoint such regional councils and such advisory committees as it considers necessary to advise it in developing the policy and operations of the Authority, and may pay the members thereof such fees for attending meetings as may be fixed by the Management Board of Cabinet and such members are entitled to be paid their reasonable travelling and living expenses necessarily incurred on the business of a committee. R.S.O. 1970, c. 311, s. 9; 1971 (2nd Sess.), c. 12, s. 8.

Bank  
accounts

R.S.O. 1980,  
c. 249

**10.**—(1) The Authority shall maintain in its own name one or more accounts in The Province of Ontario Savings Office or in one or more chartered banks or in one or more trust companies registered under the *Loan and Trust Corporations Act*.

Deposits  
in trust  
company

(2) The total deposits of the Authority in any trust company shall not exceed at any one time 3 per cent of the paid-in capital plus surplus and reserves of the trust company.

Moneys of  
Authority  
to be de-  
posited in  
bank  
accounts

(3) Subject to subsection 15 (3), all moneys received by the Authority through the conduct of its operations or otherwise shall be deposited to the credit of accounts established under subsection (1), and shall be administered by the Authority exclusively in carrying out its objects. R.S.O. 1970, c. 311, s. 10.

Audit

**11.** The accounts and financial transactions of the Authority shall be audited annually by the Provincial Auditor or such other auditor or auditors as the Lieutenant Governor in Council may appoint, and a report of the audit shall be made to the Authority and to the Minister. R.S.O. 1970, c. 311, s. 11.

Annual  
report

**12.**—(1) The Board shall make an annual report to the Minister upon the affairs of the Authority, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

(2) The Authority shall make such further reports to the Minister as the Minister may from time to time require. <sup>Further reports</sup>  
R.S.O. 1970, c. 311, s. 12.

**13.**—(1) With the approval of the Lieutenant Governor in Council, the Authority may borrow money for purchasing or otherwise acquiring real or personal property, for making improvements, or for any of the objects of the Authority, and may issue bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed, and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such interest, as the Authority may consider proper. <sup>Issue of securities</sup>  
R.S.O. 1970, c. 311, s. 13 (1).

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Authority for any of the purposes mentioned in subsection (1). <sup>Guaranteeing securities</sup>  
R.S.O. 1970, c. 311, s. 13 (2); 1972, c. 1, s. 16 (2).

(3) The form of guaranty and the manner of its execution shall be determined by the Lieutenant Governor in Council. <sup>Form of guaranty</sup>  
R.S.O. 1970, c. 311, s. 13 (3).

**14.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario, <sup>Purchase of securities by Province</sup>

(a) to purchase any securities of the Authority; and

(b) to make advances to the Authority in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient. R.S.O. 1970, c. 311, s. 14 (1); 1972, c. 1, s. 16 (3).

(2) The moneys required for the purposes of this section shall be paid out of the Consolidated Revenue Fund. <sup>Idem</sup>  
R.S.O. 1970, c. 311, s. 14 (2).

**15.**—(1) The cost of the establishment, maintenance and conduct of the Authority shall be payable out of moneys appropriated therefor by the Legislature. <sup>Cost</sup>

(2) All moneys received by the Authority shall be applied in the discharge of its duties and obligations. <sup>Application of revenue</sup>

(3) Any surplus moneys shall, on the order of the Lieutenant Governor in Council, be paid into and form part of the Consolidated Revenue Fund. <sup>Surplus money</sup>  
R.S.O. 1970, c. 311, s. 15.





## CHAPTER 332

## Ontario Energy Board Act

## 1.—(1) In this Act,

Interpre-  
tation

1. “associate” means a person, whether directly or indirectly through one or more intermediaries,
  - i. who has the power to direct or to cause to be directed the management and policies of any gas transmitter, distributor or storage company,
  - ii. whose management and policies any gas transmitter, distributor or storage company has the power to direct or to cause to be directed,
  - iii. whose management and policies any other person has the power to direct or to cause to be directed, provided that such other person has such power to direct or to cause to be directed the management and policies of any gas transmitter, distributor or storage company;
2. “Board” means the Ontario Energy Board;
3. “construct” means construct, reconstruct, relocate, enlarge or extend;
4. “distributor” means a person who supplies gas, fuel, oil or propane to a consumer, and “distributing” and “distribution” have corresponding meanings;
5. “fuel oil” means any liquid hydrocarbon within the meaning from time to time of the Canadian Government Specifications Board specification 3-GP-2 entitled FUEL OIL, 3-GP-3 entitled KEROSENE, 3-GP-6 entitled DIESEL FUEL, or, when used for heating, cooking or lighting, within the meaning from time to time of 3-GP-27 entitled LIGHTING NAPHTHA;
6. “gas” means natural gas, manufactured gas, propane-air gas or any mixture of any of them;

7. "land" includes any interest in land;
8. "manufactured gas" means any artificially produced fuel gas, except acetylene and any other gas used principally in welding or cutting metals;
9. "Minister" means the Minister of Energy;
10. "oil" means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well;
11. "owner" includes a person who is a mortgagee, lessee, tenant and occupant of land and a guardian, committee, executor, administrator or trustee in whom land is vested;
12. "person", in addition to its meaning in the *Interpretation Act*, includes a municipality;
13. "pipe line" means a pipe that carries a hydrocarbon, other than undiluted liquefied petroleum gas, and includes every part thereof and adjunct thereto;
14. "pool" means an underground accumulation of oil or natural gas or both, separated or appearing to be separated from any other such underground accumulation;
15. "producer" means a person who has the right to remove gas or oil from a well, and "produce" and "production" have corresponding meanings except when referring to documents or records;
16. "propane" means a hydrocarbon consisting of 95 per cent or more of propane, propylene, butane or butylene, or any blend thereof;
17. "regulations" means the regulations made under this Act;
18. "spacing unit" means a surface area established by a regulation made under the *Energy Act* or a predecessor thereof for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation;
19. "station" means a compressor station, a metering station, an odorizing station or a regulating station;

R.S.O. 1980,  
c. 219

R.S.O. 1980,  
c. 139

20. "storage company" means a person engaged in the business of storing gas;
21. "transmission line" means a pipe line, other than a production line, a distribution line, a pipe line within an oil refinery, oil or petroleum storage depot, chemical processing plant or pipe line terminal or station;
22. "transmitter" means a person who carries a hydrocarbon by transmission line, and "transmit" and "transmission" have corresponding meanings;
23. "utility line" means a pipe line, a telephone, telegraph, electric power or water line, or any other line that supplies a service or commodity to the public;
24. "well" means a hole drilled into a geological formation of Cambrian or more recent age, except a hole where no gas or oil is encountered that is drilled for the production of fresh water or salt. R.S.O. 1970, c. 312, s. 1; 1973, c. 55, s. 1.

(2) On a day to be named by proclamation of the Lieutenant Governor, paragraph 6 of subsection (1) is repealed and the following substituted therefor: Re-enactment  
of par. 6  
of subs. (1)

6. "gas" means natural gas, substitute natural gas, synthetic gas, manufactured gas, propane-air gas or any mixture of any of them. 1975 (2nd Sess.), c. 8, s. 1.

## PART I

### THE BOARD

**2.**—(1) The Ontario Energy Board is continued and shall consist of as many members, not fewer than five, as the Lieutenant Governor in Council may from time to time determine. 1973, c. 55, s. 2. Board,  
composition

(2) The members of the Board shall be appointed by the Lieutenant Governor in Council, and one of them shall be designated chairman and one or more of them may be designated vice-chairmen. appointment

(3) Vacancies in the membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. vacancies

- quorum (4) Two members of the Board form a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board whether or not a vacancy in the membership of the Board exists. R.S.O. 1970, c. 312, s. 2 (2-4).
- Secretary **3.**—(1) A secretary of the Board and such assistant secretaries as are considered necessary may be appointed under the *Public Service Act*.  
R.S.O. 1980, c. 418
- Acting secretary (2) Where the office of secretary is vacant or in his absence or inability to act, the Board may designate a member of the Board or an assistant secretary to act *pro tempore* as secretary. R.S.O. 1970, c. 312, s. 3.
- Staff **4.** The staff of the Board shall consist of such officers and employees as are considered necessary. R.S.O. 1970, c. 312, s. 4.
- Power to administer oaths **5.** Every member of the Board and its secretary has, for the purposes of this Act and every other Act under which the Board functions, the same powers as a commissioner for taking affidavits in Ontario. R.S.O. 1970, c. 312, s. 5.
- Protection from being called as witnesses **6.**—(1) No member of the Board or its secretary or any of its staff shall be required to give testimony in any proceedings with regard to information obtained by him in the discharge of his official duties.
- Protection from personal liability (2) No member of the Board or its secretary or any of its staff is personally liable for anything done by it or by him under the authority of this or any other Act. R.S.O. 1970, c. 312, s. 6.
- Certified copies **7.** Upon application of any person and upon payment of the prescribed fee, a member of the Board or the secretary shall certify and deliver to such person a true copy of any order or reasons for decision of the Board. R.S.O. 1970, c. 312, s. 7.
- Assistance **8.** The Board may appoint from time to time one or more persons having technical or special knowledge of any matter in question to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it. R.S.O. 1970, c. 312, s. 8; 1973, c. 55, s. 3.
- Annual report **9.**—(1) The Board shall make a report annually to the Minister containing such information as the Minister may require.
- Idem (2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the



Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 312, s. 9.

**10.** The moneys required for the purposes of the Board <sup>Money</sup> shall be paid out of the moneys that are appropriated therefor by the Legislature. R.S.O. 1970, c. 312, s. 10.

**11.—(1)** The Board shall adopt an official seal. <sup>Seal</sup>

(2) All orders made by the Board shall be signed by the chairman, a vice-chairman, the secretary or an assistant secretary and sealed with the seal of the Board, and, when purporting to be so signed and sealed, shall be judicially noticed without further proof. <sup>Signing of orders</sup>

(3) The *Regulations Act* does not apply to the orders of the Board. R.S.O. 1970, c. 312, s. 11. <sup>R.S.O. 1980, c. 446, not to apply</sup>

**12.** No authority given by the Board under this or any other Act shall be assigned without the leave of the Board. <sup>Assignment of authority</sup>  
R.S.O. 1970, c. 312, s. 12.

**13.—(1)** The Board has in all matters within its jurisdiction authority to hear and determine all questions of law and of fact. <sup>Power to determine law and fact</sup>

(2) Subject to section 26 and subsection 35 (2), where a proceeding before the Board is commenced by the filing of an application, the Board shall proceed by order. R.S.O. 1970, c. 312, s. 13 (1, 2). <sup>Applications</sup>

(3) Where a proceeding before the Board is commenced by a reference to the Board by the Minister or by the Minister of Natural Resources, the Board shall proceed in accordance with the reference. R.S.O. 1970, c. 312, s. 13 (3); 1973, c. 55, s. 4. <sup>References</sup>

(4) Where a proceeding before the Board is commenced by requirement of the Lieutenant Governor in Council, the Board shall proceed in accordance with the requirement. <sup>Orders in council</sup>

(5) The Board of its own motion may, and upon the request of the Lieutenant Governor in Council shall, inquire into, hear and determine any matter that under this Act or the regulations it may upon an application inquire into, hear and determine, and in so doing the Board has and may exercise the same powers as upon an application. <sup>Additional powers and duties as on applications</sup>

(6) The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this or any other Act. R.S.O. 1970, c. 312, s. 13 (4-6). <sup>Jurisdiction exclusive</sup>

Powers of  
Supreme  
Court  
exercisable  
by Board

**14.** The Board for the due exercise of its jurisdiction and powers and otherwise for carrying into effect this or any other Act has all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. R.S.O. 1970, c. 312, s. 14.

Board's  
powers,  
miscellan-  
eous

**15.—(1)** The Board may at any time on its own motion and without a hearing approve the form of a document or give directions or require the preparation of evidence incidental to the exercise of the powers conferred upon the Board by this or any other Act.

*ex parte*  
orders

(2) The Board, if it is satisfied that the special circumstances of the case so require or that the delay necessary to give notice of an application might entail serious mischief, may make an *ex parte* order respecting the practice and procedure in any proceeding before it.

Hearing  
upon notice

R.S.O. 1980,  
c. 139

(3) Subject to subsections (1) and (2) of this section, subsection 19 (11), subsection 22 (2), section 23 and subsection 46 (3) of this Act and to the *Energy Act* and any predecessor thereof, the Board shall not make any order or proceed in accordance with any reference or order in council under this or any other Act until it has held a hearing upon notice in such manner and to such persons as the Board may direct.

Proceedings,  
public

(4) Every proceeding before the Board shall be open to the public.

place of

(5) The Board may hear any application or deal with any matter at any place in Ontario that it appoints.

use of  
court house

(6) Where sittings of the Board are to be held in a municipality in which a court house is situate, the Board and its members have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof and of other buildings and rooms set aside in the municipality for the administration of justice.

use of  
municipal  
hall

(7) Where sittings of the Board are to be held in a municipality in which there is a hall belonging to the corporation thereof, but no court house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose.

(8) The Board may adjourn any proceeding from time to time and may make interim orders pending the final disposition of the matter before it. <sup>adjournment and interim orders</sup> R.S.O. 1970, c. 312, s. 15.

**16.** The Board in making an order may impose such terms and conditions as it considers proper, and an order may be general or particular in its application. <sup>Terms and conditions of orders</sup> R.S.O. 1970, c. 312, s. 16.

**17.—(1)** Where an application has been opposed, the Board shall prepare written reasons for its decision. <sup>Reasons for decision</sup>

(2) Where an application has been unopposed, the Board may, and at the request of the applicant shall, prepare written reasons for its decision. <sup>Idem</sup>

(3) All written reasons of the Board shall be kept by the secretary or an assistant secretary and made available to any person upon payment of the prescribed fee. <sup>Idem</sup> R.S.O. 1970, c. 312, s. 17.

**18.** An order of the Board is a good and sufficient defence to any action or other proceeding brought or taken against any person in so far as the act or omission that is the subject of such action or other proceeding is in accordance with the order. <sup>Obedience to orders of Board a good defence</sup> R.S.O. 1970, c. 312, s. 18.

**19.—(1)** Subject to the regulations, the Board may make orders approving or fixing just and reasonable rates and other charges for the sale of gas by transmitters, distributors and storage companies, and for the transmission, distribution and storage of gas. <sup>Rates</sup>

(2) In approving or fixing rates and other charges under subsection (1), the Board shall determine a rate base for the transmitter, distributor or storage company, and shall determine whether the return on the rate base produced or to be produced by such rates and other charges is reasonable. <sup>Board to determine rate base</sup>

(3) The rate base to be determined by the Board under subsection (2) shall be the total of, <sup>Formula for determining rate base</sup>

- (a) a reasonable allowance for the cost of the property that is used or useful in serving the public, less an amount considered adequate by the Board for depreciation, amortization and depletion;
- (b) a reasonable allowance for working capital; and
- (c) such other amounts as, in the opinion of the Board, ought to be included.

Idem,  
cost of  
property

(4) In determining the reasonable allowance for the cost of the property under clause (3) (a), the Board shall ascertain the actual cost of the property to the present owner, but,

- (a) where the actual cost to the present owner of any of the property cannot be ascertained, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property; and
- (b) where in the opinion of the Board the actual cost to the present owner of any of the property is more than a reasonable allowance for inclusion in the rate base for the cost of that property, the Board shall determine a reasonable allowance to be included in the rate base for the cost of that property.

Idem

(5) In considering whether the actual cost mentioned in subsection (4) exceeds a reasonable allowance for inclusion in the rate base and in determining the appropriate deductions to be made in respect of any such excess, the Board may consider all matters it considers relevant, including the public benefit resulting from the acquisition of the property, whether the acquisition at the price paid was prudent in the circumstances existing at the time and, where the property was acquired as an operating system or part thereof, the allowance made for its cost in the rate base of the former owner or, if no such rate base had been determined that included an allowance for the cost thereof, the allowance that would have been made therefor in a rate base for the former owner determined in accordance with this section.

Findings  
of fact

(6) Findings of fact on which determinations are made by the Board under subsections (2), (3), (4) and (5) shall be based on the evidence adduced at the hearing. R.S.O. 1970, c. 312, s. 19 (1-6).

Where rate  
base may  
be dispensed  
with

(7) Notwithstanding anything to the contrary, the Board may dispense with the determination of a rate base,

- (a) in the case of a transmitter, distributor or storage company that has been carrying on business by itself and by its predecessor, if any, for less than two years;
- (b) in the case of the approval or fixing of rates or other charges that, in the opinion of the Board, are of limited application and not unjust or unreasonable in relation to the other rates and charges then being charged by the transmitter, distributor or storage company;



- (c) in the case of the approval or fixing of prompt-payment discounts or delayed-payment penalties;
  - (d) in the case of a transmitter, distributor or storage company that is selling, transmitting, distributing or storing gas, as the case may be, at a loss;
  - (e) in the case of an application that does not contain a request for an increase in the rates or other charges then being charged for the sale, transmission, distribution or storage of gas by the transmitter, distributor or storage company;
  - (f) in the case of the approval or fixing of increased rates or other charges of a gas transmitter, gas distributor or storage company where the purpose and effect of increasing the rates or other charges is to permit the gas transmitter, gas distributor or storage company to recover all or part of increases, approved, fixed, authorized or permitted by or under any statute, in the cost of gas purchased by or transmitted or stored for him or it; or
  - (g) in the case of an order under subsection 15 (8) or subsection (11) of this section. R.S.O. 1970, c. 312, s. 19 (7); 1973, c. 55, s. 5 (1).
- (8) Subject to the regulations, no transmitter, distributor or storage company shall sell gas or charge for the transmission, distribution or storage of gas except in accordance with an order of the Board, which is not bound by the terms of any contract. R.S.O. 1970, c. 312, s. 19 (8); 1973, c. 55, s. 5 (2). Prohibition  
as to sale,  
etc., of gas
- (9) Subject to subsection (12), at any hearing with respect to rates or other charges for the sale, transmission, distribution or storage of gas, the burden of proof is on the applicant. Burden of  
proof
- (10) Upon an application for an order approving or fixing rates or other charges, the Board may after a hearing, if it is not satisfied that the rates or other charges applied for are just and reasonable, fix such other rates or charges as it finds to be just and reasonable. Orders on  
applications
- (11) The Board may, at the request of any applicant, without a hearing, make one or more orders under subsection (1), each effective for a period of not more than one year, pending a final disposition of the application, Interim  
rate orders
- (a) where the rates or other charges proposed in the application are the initial rates or other charges

for the sale, transmission, distribution or storage of gas by the transmitter, distributor or storage company in the municipality or area named in the application;

- (b) where, after notice of the application has been given in accordance with the regulations, no one has filed an answer within the time limited therefor;
- (c) where the application is for approving or fixing prompt-payment discounts or delayed-payment penalties;
- (d) where the transmitter, distributor or storage company is selling, transmitting, distributing or storing gas, as the case may be, at a loss; or
- (e) where the application does not contain a request for an increase in the rates or other charges then being charged for the sale, transmission, distribution or storage of gas by the transmitter, distributor or storage company.

Other rate  
orders

(12) Where the Board of its own motion, or upon the request of the Lieutenant Governor in Council, holds a hearing for the purpose of inquiring into and determining whether any of the rates or other charges for the sale, transmission, distribution or storage of gas by any transmitter, distributor or storage company are just and reasonable, the Board shall, after such hearing, make an order under subsection (1), and in any such hearing the burden of establishing that such rates or other charges are just and reasonable is on the transmitter, distributor or storage company, as the case may be.

Where  
section does  
not apply

R.S.O. 1980,  
c. 423

(13) This section does not apply to any municipality or municipal public utility commission transmitting or distributing gas under the *Public Utilities Act*. R.S.O. 1970, c. 312, s. 19 (9-13).

Prohibition

**20.** No person shall inject gas for storage into a geological formation unless the geological formation is within a designated gas storage area and unless, in the case of gas storage areas designated after the 31st day of January, 1962, authorization so to do has been obtained under section 21 or its predecessor. R.S.O. 1970, c. 312, s. 20.

Authority  
to store

**21.—(1)** The Board by order may authorize a person to inject gas into, store gas in and remove gas from a designated gas storage area, and to enter into and upon the land in the area and use the land for such purposes.

(2) Subject to any agreement with respect thereto, the person authorized by an order under subsection (1),

Right to compensation

(a) shall make to the owners of any gas or oil rights or of any right to store gas in the area fair, just and equitable compensation in respect of such gas or oil rights or such right to store gas; and

(b) shall make to the owner of any land in the area fair, just and equitable compensation for any damage necessarily resulting from the exercise of the authority given by such order.

(3) No action or other proceeding lies in respect of compensation payable under this section and, failing agreement, the amount thereof shall be determined by the Board.

Determination of amount of compensation

(4) An appeal within the meaning of section 33 of the *Expropriations Act* lies from a determination of the Board under subsection (3) to the Divisional Court, in which case that section applies and section 32 of this Act does not apply. R.S.O. 1970, c. 312, s. 21.

Appeal  
R.S.O. 1980,  
c. 148

**22.**—(1) Upon the application of a transmitter or distributor, the board, by order, may direct a storage company having storage capacity and facilities that are not in full use to provide all or part of such storage capacity and facilities for the applicant upon such terms and conditions as may be determined by the Board. R.S.O. 1970, c. 312, s. 22 (1).

Allocation of surplus storage facilities

(2) No storage company shall enter into any agreement or renew any agreement with any person with respect to the storage of gas unless,

Gas storage agreements to be approved

(a) the parties to the agreement or renewal;

(b) the period for which the agreement or renewal is to be in operation; and

(c) the storage that is the subject of the agreement or renewal,

have first been approved by the Board with or without a hearing. R.S.O. 1970, c. 312, s. 22 (2); 1973, c. 55, s. 7.

Applications  
to drill  
well to be  
referred to  
Board

**23.**—(1) The Minister shall refer every application for a permit to bore, drill or deepen a well in a designated gas storage area to the Board, and the Board shall report to the Minister thereon, but, where the applicant does not have authority to store gas in the area or where, in the opinion of the Board, the special circumstances of the case so require, the Board shall hold a hearing before reporting to the Minister, and in either event the Minister shall grant or refuse to grant the permit in accordance with the report.

Copy of  
report to be  
sent to  
parties

(2) The Board shall send to each of the parties a copy of its report to the Minister made under subsection (1) within ten days after submitting it to the Minister and such report shall be deemed to be a decision of the Board within the meaning of section 33. R.S.O. 1970, c. 312, s. 23.

Interpre-  
tation

(3) In this section, "Minister" means the Minister of Natural Resources. 1973, c. 55, s. 8.

Allocation  
of market  
demand and  
joining  
interests in  
spacing units  
and pools

**24.** The Board by order may,

- (a) allocate a just and equitable share of the market demands for gas or oil to the several sources from which such gas or oil is produced and to the several interests within a field or pool;
- (b) require the joining of the various interests within a spacing unit for the purpose of drilling or operating a well and the apportioning of the costs and the benefits of such drilling or operation; or
- (c) require and regulate the joining of the various interests within a field or pool for the purpose of drilling or operating wells, the designation of management and the apportioning of the costs and the benefits of such drilling or operation. R.S.O. 1970, c. 312, s. 24.

Discon-  
tinuation of  
gas supply  
R.S.O. 1980,  
cc. 423, 139

**25.** Subject to the *Public Utilities Act* and to the *Energy Act*, and in the absence of an agreement to the contrary between the parties affected, no transmitter shall voluntarily discontinue transmitting gas to a distributor without the leave of the Board, and no distributor shall voluntarily discontinue distributing gas by pipe line to a consumer without the leave of the Board. R.S.O. 1970, c. 312, s. 25.

Disposition  
of gas  
systems and  
acquisition  
of share  
control

**26.**—(1) No gas transmitter, gas distributor or storage company, without first obtaining the leave of the Lieutenant Governor in Council, shall,



(a) sell, lease, convey or otherwise dispose of its gas transmission, gas distribution or gas storage system, or any part thereof that is used or useful in serving the public, as an entirety or substantially as an entirety; or

(b) amalgamate with any other company. R.S.O. 1970, c. 312, s. 26 (1); 1973, c. 55, s. 9 (1).

(2) No person, without first obtaining the leave of the Lieutenant Governor in Council, shall acquire such number of any class of shares of a gas transmitter, gas distributor or storage company that together with shares already held by such person or by such person and an associate or associates of such person will in the aggregate exceed 20 per cent of the shares outstanding of that class of the gas transmitter, gas distributor or storage company. Acquisition of share control

(3) This section does not apply to a mortgage or charge to secure any loan or indebtedness or to secure any bond, debenture or other evidence of indebtedness. Mortgages

(4) An application for leave under this section shall be made to the Board, which shall hold a public hearing and submit its report and opinion to the Lieutenant Governor in Council. Public hearing

(5) Notwithstanding any other provision of this Act, in this section, "associate", when used to indicate a relationship with any person or company, means, Interpretation

(a) a person who has the power to direct or cause to be directed the management and policies of the company;

(b) a company whose management and policies the person has the power to direct or to cause to be directed;

(c) another company whose management and policies are subject to a power to direct or to cause to be directed by a person who also has power to direct or cause to be directed the management and policies of the company;

(d) a partner of that person or company acting by or for the partnership of which they are both partners;

(e) a trust or estate in which such person or company has a substantial beneficial interest or as to which

such person or company serves as trustee or in a similar capacity;

(f) a spouse, son or daughter of that person;

(g) a relative of such person or of his spouse, other than a relative referred to in clause (f) who has the same home as such person; or

(h) any person who is obligated to act in concert with such person in exercising voting rights in respect of the shares of a company. 1973, c. 55, s. 9 (2).

Rules and  
regulations  
of Board

**27.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may,

(a) make rules regulating its practice and procedure;

(b) prescribe classes of distributors, transmitters and storage companies;

(c) require and provide for the making of returns, statements or reports by any class of distributors, transmitters or storage companies, or any associates thereof, in such form, and containing such matters and verified in such manner, as the Board may prescribe;

(d) prescribe a uniform system of accounts applicable to any class of distributors, transmitters or storage companies.

Idem,  
uniform  
system of  
accounts

(2) Any uniform system of accounts prescribed under clause (1) (d) may require the approval, consent or determination of the Board in respect of any of the matters provided for in such system. R.S.O. 1970, c. 312, s. 28.

Costs

**28.**—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be taxed.

Idem

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed.

Idem

(3) The Board may prescribe a scale under which such costs shall be taxed.

(4) In this section, the costs may include the costs of the Board, regard being had to the time and expenses of the Board. <sup>Idem</sup> R.S.O. 1970, c. 312, s. 29.

**29.**—(1) A certified copy of any order made by the Board, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such. <sup>Enforcement of orders</sup>

(2) Any order so filed may be rescinded or varied by the Board at any time in the manner provided in section 30. <sup>Effect of filing</sup>

(3) An order of the Board requiring a person to pay money to the Board, to any party to a proceeding before the Board or to any other person as costs or otherwise may be enforced by a written direction from the Board to the sheriff of any county or district endorsed upon or annexed to a certified copy of the order. <sup>Direction to sheriff</sup>

(4) The sheriff receiving such a direction shall levy the amount named therein with his costs and expenses in like manner and with the same power as if the endorsed order were an execution issued out of the Supreme Court against the goods of the person named in the order, and the order so endorsed constitutes a lien and charge upon the property, real or personal, or the interest therein of the person named in the order, that is situate in such county or district to the same extent and in the same manner as the property would be bound by the filing with the sheriff of an execution issued after judgment of the Supreme Court. <sup>Effect of direction</sup>

(5) Where the person named in any such order holds lands or any interest therein that is registered in a land registry office, the Board may register a certified copy of the order with the proper land registrar, and, when so registered, it constitutes a lien and charge upon the land to the same extent and in the same manner as an execution issued after judgment in the Supreme Court and registered with the proper land registrar. <sup>Land titles</sup>

(6) The amount ordered to be paid by any order registered under subsection (5) may be realized in the same manner and by the same proceedings, with necessary modifications, as the amount of any registered execution of the Supreme Court. <sup>Idem</sup> R.S.O. 1970, c. 312, s. 30.

**30.** The Board may at any time and from time to time rehear or review any application before deciding it, and may by order rescind or vary any order made by it. <sup>Power to review</sup> R.S.O. 1970, c. 312, s. 31.

Stated  
case

**31.**—(1) The Board may, at the request of the Lieutenant Governor in Council or of its own motion or upon the application of any party to proceedings before the Board and upon such security being given as it directs, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Board, is a question of law.

Idem

(2) The Divisional Court shall hear and determine the stated case and remit it to the Board with the opinion of the court thereon. R.S.O. 1970, c. 312, s. 32.

Appeal to  
Divisional  
Court

**32.**—(1) An appeal lies to the Divisional Court from any order of the Board upon a question of law or jurisdiction, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the order sought to be appealed from or within such further time as the court under the special circumstances of the case allows.

Board may  
be heard

(2) The Board is entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Board to  
act on  
court's  
opinion

(3) The Divisional Court shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion, but in no case shall such order be retroactive in its effect.

Board not  
liable for  
costs

(4) The Board, or any member thereof, is not liable for costs in connection with any appeal or application for leave to appeal under this section.

Order to  
take effect  
notwith-  
standing  
appeal

(5) Every order made under section 19 takes effect at the time prescribed in the order, and its operation is not suspended by an appeal. R.S.O. 1970, c. 312, s. 33, *revised*.

Proviso

(6) This section does not apply to an order made by the Board in respect of the conduct of a proceeding under section 37. 1973, c. 55, s. 10.

Lieutenant  
Governor in  
Council may  
confirm, vary  
or rescind  
orders

**33.** Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within twenty-eight days after the date of any order or decision of the Board, the Lieutenant Governor in Council may,

(a) confirm, vary or rescind the whole or any part of such order or decision; or

(b) require the Board to hold a new public hearing of the whole or any part of the application to the Board



upon which such order or decision of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this section. R.S.O. 1970, c. 312, s. 34; 1973, c. 55, s. 11.

**34.**—(1) Every person who contravenes any provision of <sup>Offences</sup> this Act or the regulations or any order of the Board is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$2,000 for each day over which the offence continues or to imprisonment for a term of not more than two years less a day, or to both.

(2) No information may be laid under this section without <sup>Permission of the Minister</sup> the written permission of the Minister in the form prescribed by the regulations. R.S.O. 1970, c. 312, s. 35.

**35.**—(1) The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) limiting, restricting or taking away any rights to use or consume gas without charge or at a reduced rate;
- (b) requiring the Board to approve or fix rates or other charges under section 19;
- (c) providing for compensation procedure for the owners of gas or oil rights and the rights to store gas and for the owners of land who are referred to in subsection 21 (2);
- (d) prescribing the duties of the secretary, assistant secretary and officers of the Board;
- (e) prescribing forms and providing for their use;
- (f) prescribing fees payable to the Board;
- (g) upon the recommendation of the Board, designating any area as a gas storage area;
- (h) exempting any person from the operation of or compliance with any provision of this Act;

- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Gas storage  
areas

(2) An application for a regulation designating a gas storage area shall be made to the Board, which shall hold a hearing thereon and make its recommendation to the Lieutenant Governor in Council. R.S.O. 1970, c. 312, s. 36.

References

**36.** The Lieutenant Governor in Council may require the Board to examine and report on any question respecting energy that, in the opinion of the Lieutenant Governor in Council, requires a public hearing. R.S.O. 1970, c. 312, s. 37.

Interpre-  
tation

**37.**—(1) In this section, “customer” means an industrial customer of Ontario Hydro having an average annual power demand of 5,000 kilowatts or more or a municipal corporation or municipal electric utility commission. 1973, c. 55, s. 12, *part*; 1973, c. 57, s. 19.

Proposal by  
Ontario  
Hydro  
to change  
rates or  
charges

(2) Where Ontario Hydro proposes to change any of its rates or charges for any customer, it shall submit the proposal to the Minister not less than eight months before the date that the change is proposed to come into effect and the Minister shall refer the proposal to the Board. 1973, c. 55, s. 12, *part*; 1973, c. 57, s. 19.

Idem.  
public  
hearing  
by Board

(3) Where a proposal is referred to the Board by the Minister pursuant to subsection (2), the Board forthwith by public advertisement shall give at least twenty days notice of and shall hold a public hearing with respect to the proposal and shall make a report or an interim report thereon to the Minister at least four months before the proposed effective date of such change and where the Board makes an interim report within such time it shall make a final report as soon as possible thereafter. 1973, c. 55, s. 12, *part*.

Idem

(4) The Minister at any time may refer to the Board, in addition to any proposed changes in rates or charges mentioned in subsection (2),

- (a) any existing or proposed rates or charges of Ontario Hydro to its customers or any class thereof;
- (b) any matter in any way affecting or related to rates or charges by Ontario Hydro to its customers including, without limiting the generality of the foregoing, principles and practices respecting power costing, rate-making, financing, service reliability, system expansion and operations; or

- (c) the principles used by or appropriate for use by Ontario Hydro in the exercise of any power to approve, determine or fix rates or other charges under section 90, 92 or 95 of the *Power Corporation Act*, R.S.O. 1980, c. 384

and the Board shall hold a public hearing at which it shall investigate and examine into the matter referred to it and shall then report thereon to the Minister. 1973, c. 55, s. 12, *part*; 1973, c. 57, s. 19; 1976, c. 21, s. 1 (2).

- (5) The power of the Minister set out in clause (4) (a) does not Proviso apply to rates or charges in effect before the 1st day of January, 1975.

- (6) A reference under this section may be general or Reference may be general or particular particular in terms and may specify criteria or factors to guide the Board in making its investigation, examination and report.

- (7) The Board may at any time give directions as to the Directions by Board nature and extent of interventions by persons interested in a matter that is to be the subject of a public hearing held pursuant to this section, may set aside for future examination any issue that in its opinion requires a more prolonged examination and may make interim reports pending its final report with respect to the subject-matter of any reference. 1973, c. 55, s. 12, *part*.

- (8) The Board may appoint from among a class of retail Board may appoint class representative customers of Ontario Hydro having, in the opinion of the Board, a common interest, a person to represent that class at the hearing where it appears to the Board that the appointment should be made so that the class can be heard, but any other member of the class for which such appointment was made may be heard notwithstanding the appointment. 1973, c. 55, s. 12, *part*; 1973, c. 57, s. 19.

- (9) An interim or final report of the Board under this Report of Board section shall contain a summary of the information presented and the views expressed at the public hearing together with the opinion of the Board and its reasons therefor with respect to the matter or matters reported on and the signatures of the members of the Board making the report, and the Board shall deliver a copy of the report to Ontario Hydro forthwith after its making. 1973, c. 55, s. 12, *part*; 1973, c. 57, s. 19.

- (10) Upon delivery of a report under this section, the Public inspection of report Board shall make reasonable arrangements for inspection or purchase of copies by the public. 1973, c. 55, s. 12, *part*.

## PART II

## GAS PRIORITIES AND ALLOCATION

Interpre-  
tation**38.** In this Part,

- (a) "consumer" includes a distributor who purchases all or part of his supply of gas from another distributor;
- (b) "distributor" means a person who supplies gas to a consumer. 1975 (2nd Sess.), c. 8, s. 2, *part.*

Distributor  
to comply  
with  
approved  
allocation  
plan**39.**—(1) Where an allocation plan governing a distributor is approved by the Board, the distributor shall supply gas only in accordance with the allocation plan.Filing by  
distributor

(2) Every distributor, at such times as may be prescribed by the regulations, shall file with the Board,

- (a) an estimate of the quantity of gas that will be available to the distributor to supply the requirements of its consumers for gas; and
- (b) the distributor's proposed plan for the allocation of the gas referred to in clause (a),

for such periods of time as may be prescribed by the regulations.

Approval  
of  
allocation  
plan

(3) The Board shall consider the proposed allocation plan filed by a distributor together with any objection or submission filed with respect thereto and shall by order approve the plan with or without such modifications or additions thereto as the Board shall determine.

Amendment  
of approved  
allocation  
plan(4) The Board, subject to the same procedures as nearly as possible as apply to the approval of proposed allocation plans, may by order amend an approved allocation plan on its own motion upon notice to the distributor governed by the approved allocation plan or on the application of the distributor governed by the approved allocation plan. 1975 (2nd Sess.), c. 8, s. 2, *part.*Board may  
order  
assistance  
to  
distributor**40.** Upon application, the Board may, after a hearing direct a distributor to make available to another distributor such amount of gas, or any class thereof, and by such means, including sale, loan or otherwise, and on such terms and conditions, including compensation, and to be used by the



receiving distributor in such manner, as may be determined by the Board. 1975 (2nd Sess.), c. 8, s. 2, *part*.

**41.** Notwithstanding section 25 of this Act and section 54 of the *Public Utilities Act*,

Compliance  
with  
regulation,  
etc.

R.S.O. 1980,  
c. 423

(a) every distributor affected by a regulation, an order of the Board or an allocation plan approved under this Part, and every consumer affected by an order of the Board, shall comply therewith in accordance with its terms notwithstanding anything in any contract between a distributor and a consumer; and

(b) no action shall be brought against a distributor and a distributor shall not be liable for an act or omission in respect of the supply of gas or the failure to supply gas in so far as such act or omission is authorized, permitted or required by this Part, the regulations, an order of the Board or an allocation plan approved by the Board under this Part. 1975 (2nd Sess.), c. 8, s. 2, *part*.

**42.**—(1) Subject to subsection (2) and the regulations, no person, except a distributor, shall use gas in Ontario that has not been acquired from a distributor.

Prohibition

(2) Subsection (1) does not apply to the operator of a pipeline as defined in the *National Energy Board Act* (Canada). 1975 (2nd Sess.), c. 8, s. 2, *part*.

Exception  
R.S.C. 1970,  
c. N-6

**43.** Every order made under this Part takes effect at the time prescribed in the order and the operation of the order is not suspended by an appeal or an application under the *Judicial Review Procedure Act*. 1975 (2nd Sess.), c. 8, s. 2, *part*.

Order to take  
effect  
notwith-  
standing  
appeal  
R.S.O. 1980,  
c. 224

**44.**—(1) The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing a system or systems of priorities that, subject to any order of the Board and any allocation plan approved by the Board, shall be complied with by distributors in the supply of gas to consumers;

(b) prescribing times and periods of time for the purposes of subsection 39 (2);

(c) specifying principles, criteria or factors that shall be followed by distributors in formulating and implementing allocation plans;

- (d) prescribing additional information and material to be contained in an allocation plan, or to be supplied in support of the plan;
- (e) prescribing the form in which an allocation plan shall be prepared and filed;
- (f) prescribing the procedures for notification to consumers and classes of consumers affected by a proposed plan and for inspection of the plan;
- (g) prescribing the procedures for the filing of objections or submissions in respect of any allocation plan with the Board and for the inspection of such objections or submissions;
- (h) prescribing the procedures for the implementation of approved allocation plans by distributors;
- (i) respecting the manner in which notice of allocation plans, proposed or approved, shall be given to the public;
- (j) respecting any other matter necessary or advisable to provide for situations in which the supply of gas available for use in Ontario is not sufficient to supply all of the requirements of consumers of gas in Ontario so as to carry out effectively the intent and purpose of this Part.

Idem

(2) A regulation made under this Part may be general or particular in its application and may apply to any class of distributors, to any class of gas and to any class of consumers. 1975 (2nd Sess.), c. 8, s. 2, *part.*

Commence-  
ment

**45.** This Part does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1975 (2nd Sess.), c. 8, s. 3.

### PART III

#### PIPE LINES

Leave to  
construct  
a transmis-  
sion line

**46.**—(1) No person shall construct a transmission line without first obtaining from the Board an order granting leave to construct the transmission line.

Exception

(2) Subsection (1) does not apply to the relocation or reconstruction of a transmission line unless the size of the line is changed or unless the acquisition of additional land or authority to use additional land is necessary.

(3) The Board may, if in its opinion the special circumstances of a particular case so require, without a hearing exempt a person from the requirements of subsection (1). Exception  
R.S.O. 1970, c. 312, s. 38.

47. Any person may, before he constructs a production line, distribution line or station, apply to the Board for an order granting leave to construct the production line, distribution line or station. Leave to construct in other cases  
R.S.O. 1970, c. 312, s. 39.

48.—(1) An applicant for an order granting leave to construct a transmission line, production line, distribution line or a station shall file with his application a map showing the general location of the proposed line or station and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the proposed line is to pass. Route map  
R.S.O. 1970, c. 312, s. 40 (1).

(2) Notice of the application shall be given by the applicant in such manner as the Board directs and shall be given to the Ministry of Agriculture and Food, the Ministry of Treasury and Economics, the Ministry of Intergovernmental Affairs, the Ministry of Transportation and Communications and such persons as the Board may direct. Notice of application  
R.S.O. 1970, c. 312, s. 40 (2); 1972, c. 1, ss. 1, 100 (2); 1972, c. 3, s. 17 (2).

(3) Where an interested person desires to make objection to the application, such objection shall be given in writing to the applicant and filed with the Board within fourteen days after the giving of notice of the application and shall set forth the grounds upon which such objection is based. Objections

(4) A reply to an objection may be given to the objector in writing and filed with the Board within fourteen days after the giving of the objection. Reply

(5) Where an application is opposed, it shall not be heard for at least thirty days after the day on which it was filed with the Board. Hearing

(6) Where an application is unopposed, it shall not be heard for at least fourteen days after the day on which it was filed with the Board. Idem

(7) Notice of the time and place fixed by the Board for the hearing shall be given in accordance with subsection (2). Notice of hearing

(8) Where after the hearing the Board is of the opinion that the construction of the proposed line or station is in the Power to grant leave

public interest, it may make an order granting leave to construct the line or station.

**Agreements** (9) Leave to construct the line or station shall not be granted until the applicant satisfies the Board that it has offered or will offer to each landowner an agreement in a form approved by the Board.

**Right to enter land** (10) Any person to whom the Board has granted leave to construct a line or station, his officers, employees and agents, may enter into or upon any land at the intended location of any part of the line or station and may make such surveys and examinations as are necessary for fixing the site of the line or station, and, failing agreement, any damages resulting therefrom shall be determined in the manner provided in section 50. R.S.O. 1970, c. 312, s. 40 (3-10).

**Expropriation** **49.**—(1) Any person who has leave to construct a line or station under this Part or a predecessor of this Part may apply to the Board for authority to expropriate land for the purposes of the line or station, and the Board shall thereupon set a date for the hearing of such application, and such date shall be not fewer than fourteen days after the date of the application, and upon such application the applicant shall file with the Board a plan and description of the land required, together with the names of all persons having an apparent interest in the land.

**Procedure** (2) The applicant shall serve notice of the application and notice of the hearing on such persons and in such manner as the Board may direct.

**Power to make order** (3) Where after the hearing the Board is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land. R.S.O. 1970, c. 312, s. 41.

**Determination of compensation** **50.** Where compensation for damages is provided for in this Part and is not agreed upon, the procedures set out in clauses 26 (a) and (b) of the *Expropriations Act* apply to the determination of such compensation, and such compensation shall be determined under section 27 of that Act or by the Land Compensation Board continued under section 28 of that Act. R.S.O. 1970, c. 312, s. 42.

**Crossings with leave** **51.**—(1) Any person who has leave to construct a line may apply to the Board for authority to construct it upon, under or over a highway, utility line or ditch.

**Procedure** (2) The procedure set forth in subsections 49 (1) and (2) applies with necessary modifications to an application under this section.



(3) Without any other leave and notwithstanding any other Act, where after the hearing the Board is of the opinion that the construction of the line upon, under or over a highway, utility line or ditch, as the case may be, is in the public interest, it may make an order authorizing the applicant so to do upon such terms and conditions as it considers proper. R.S.O. 1970, c. 312, s. 43.

Order

**52.** Any person who has acquired land for the purposes of his line or station by agreement with the owner of the land shall make to the owner of the land due compensation for any damages resulting from the exercise of his rights under the agreement, and, if the compensation is not agreed upon by them, it shall be determined in the manner prescribed by section 50. R.S.O. 1970, c. 312, s. 44.

Right to compensation for damages during construction

**53.** Any person, his servants or agents, who,

Right of entry and compensation

- (a) require at any time to enter upon any land to gain access to his right of way established under this Part, or a predecessor thereof, for the purpose of maintaining, repairing, renewing or removing his line or part of it;
- (b) require at any time to enter upon any land to gain access directly to his pipe line or any part thereof for the purpose of effecting emergency repairs to his pipe line,

have the right to do so without the consent of the owner of the land so entered, and compensation for any damages resulting from the exercise of such right, if not agreed upon by such person and the owner of the land, shall be determined in the manner prescribed by section 50. R.S.O. 1970, c. 312, s. 45.

**54.** Where leave to construct a line has been granted under this Part, section 57 of the *Public Utilities Act* does not apply to such line. R.S.O. 1970, c. 312, s. 47.

Where R.S.O. 1980, c. 423, s. 57 not to apply

**55.—**(1) One or more inspectors may be appointed under the *Public Service Act* for the purposes of this Part.

Inspectors R.S.O. 1980, c. 418

(2) The Minister may, with the approval of the Lieutenant Governor in Council, make regulations prescribing the duties of such inspectors. R.S.O. 1970, c. 312, s. 48.

Idem

## PART IV

## ENERGY RETURNS OFFICER

Energy  
Returns  
Officer  
R.S.O. 1980,  
c. 418

**56.**—(1) There may be appointed under the *Public Service Act* an officer known as the Energy Returns Officer who shall assist the Board.

Staff

(2) The staff of the Energy Returns Officer shall consist of such deputy officers and employees as are considered necessary.

Information  
privileged

(3) Neither the Energy Returns Officer nor any of his staff shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duties.

No personal  
liability

(4) Neither the Energy Returns Officer nor any of his staff is personally liable for anything done by him under the authority of this Act or the regulations.

May take  
oaths

(5) The Energy Returns Officer and every deputy officer has, for the purposes of this Act and the regulations, the same powers as a commissioner for taking affidavits in Ontario. R.S.O. 1970, c. 312, s. 49.

Assistance

**57.** The Lieutenant Governor in Council may appoint from time to time one or more persons having technical or special knowledge of any matter in question to inquire into and report to the Energy Returns Officer and to assist the Energy Returns Officer in any capacity. R.S.O. 1970, c. 312, s. 50.

Production  
of documents,  
etc.

**58.** The Energy Returns Officer may for the purposes of this Act and the regulations, by registered letter or by a demand served personally, require from any gas transmitter, distributor, storage company or associate any information relating to the business of transmitting, distributing or storing gas or transactions with gas transmitters, distributors or storage companies, or further explanation or details of such information or the production, or the production on oath, of any document or record connected with the business of transmitting, distributing or storing gas within such reasonable time as is stipulated in such letter. R.S.O. 1970, c. 312, s. 51.

Power to  
enter, etc.

**59.** When authorized in writing by the chairman of the Board in the form prescribed by the regulations, the Energy Returns Officer and every other person so authorized may, for the purposes of this Act and the regulations, at all reasonable times, enter into any premises or place where any gas

transmitter, distributor, storage company or associate is carrying on business or keeps any document or record connected with the business of transmitting, distributing or storing gas, or connected with any transaction with a gas transmitter, distributor or storage company, or does or has done anything to any such document or record, and may examine any such document or record, and may conduct audits, and may require any such gas transmitter, distributor, storage company or associate or its officers or directors to give all reasonable assistance with such examination or audit and to answer all proper questions relating to the examination or audit, either orally or in writing, on oath or by statutory declaration, and may, upon giving a receipt therefor, remove any such document or record from such premises or place for the purpose of photocopying such document or record, provided that such photocopying is carried out with reasonable dispatch and such document or record is immediately thereafter returned to such gas transmitter, distributor, storage company or associate and the return thereof is acknowledged in writing. R.S.O. 1970, c. 312, s. 52.

**60.** The Energy Returns Officer shall notify the Board of <sup>Notifying Board</sup> all matters he thinks relevant to Board proceedings or possible future Board proceedings. R.S.O. 1970, c. 312, s. 53.

**61.**—(1) The Energy Returns Officer, any deputy officer, <sup>Witnesses</sup> any person authorized by the chairman of the Board in writing under section 59 and any inspector may be called as a witness by the Board.

(2) No document, record or photocopy thereof in the hands <sup>No privilege</sup> of the Energy Returns Officer shall be excluded as evidence on the ground of privilege.

(3) No document, record or photocopy thereof or any <sup>Owner to be party</sup> return made under this Part in the hands of the Energy Returns Officer shall be introduced in evidence in any proceeding unless the owner of the document or record or the maker of the return is a party to that proceeding or an associate of a party to that proceeding. R.S.O. 1970, c. 312, s. 54.

**62.**—(1) All information and material furnished to or <sup>Information confidential</sup> received or obtained by the Energy Returns Officer, his deputy officers and employees or any person authorized by the chairman of the Board in writing under section 59 is confidential.

(2) No person shall otherwise than in the ordinary course <sup>Idem</sup> of his duties communicate any such information or allow access to or inspection of any such material.

Offence

(3) Every person who contravenes any of the provisions of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Permission  
of the  
Minister

(4) No information may be laid under this section without the written permission of the Minister in the form prescribed by the regulations. R.S.O. 1970, c. 312, s. 55.

Note evidence  
in certain  
proceedings

**63.** No document, record or photocopy thereof or any return made under this Part is admissible in evidence in any proceeding except proceedings respecting an order of the Board or in summary proceedings with respect to offences under section 34. R.S.O. 1970, c. 312, s. 56.

## PART V

### MISCELLANEOUS

Conflict

**64.**—(1) In the event of conflict between this Act and any other general or special Act, this Act prevails.

Idem

(2) This Act and the regulations prevail over any by-law passed by a municipality. R.S.O. 1970, c. 312, s. 57.



## CHAPTER 333

## Ontario Energy Corporation Act

1.—(1) In this Act,

Interpre-  
tation

- (a) “Board” means the Board of Directors of the Corporation;
- (b) “Corporation” means the Ontario Energy Corporation;
- (c) “Minister” means the Minister of Energy;
- (d) “security” includes a bond, debenture, note or other evidence of indebtedness, share, unit, unit certificate, a certificate of share or interest in a trust, estate or association and a certificate of interest in an oil, gas or other hydrocarbon lease, claim or royalty certificate and a document constituting evidence of an interest in any royalties or leases or fractional or other interest therein;
- (e) “Treasurer of Ontario” means the Treasurer of Ontario and Minister of Economics.

(2) In this Act, the terms,

Idem

- (a) “affiliate”;
- (b) “associate”;
- (c) “equity share”; and
- (d) “resident Canadian”,

have the same meanings as in the *Business Corporations Act*, 1974, c. 101, s. 1. R.S.O. 1980,  
c. 54

2.—(1) Except as herein otherwise provided, the provisions of the *Business Corporations Act* apply to the Corporation. Application  
of  
R.S.O. 1980,  
c. 54

(2) The provisions of sections 3 to 11, 15 and 180 to 245 of the *Business Corporations Act* do not apply to the Corporation and Idem

the Corporation shall not enter into any arrangement, amalgamation, continuation, winding up or dissolution within the meaning of the *Business Corporations Act*.

R.S.O. 1980,  
c. 54

Corporation has  
powers of  
natural  
person

(3) The Corporation has all the capacity and power of a natural person and no act of the Corporation and no transfer of real or personal property to or by the Corporation and no issue or sale of securities by the Corporation, otherwise lawful, that is done or made is invalid by reason of the fact that the Corporation is without capacity or power to do such act or make or receive such transfer or issue or sell such securities. 1974, c. 101, s. 2.

Corporation  
continued

**3.** The Ontario Energy Corporation is continued as a corporation with share capital. 1974, c. 101, s. 3, *revised*.

Board of  
Directors

**4.—(1)** There shall be a Board of Directors of the Corporation consisting of five members and the first directors of the Corporation shall be appointed by the Lieutenant Governor in Council to hold office until their successors are elected by the shareholders of the Corporation.

Majority  
to be  
resident  
Canadians

(2) A majority of the members of the Board shall at all times be resident Canadians.

Change in  
number of  
directors

(3) The Corporation may by special by-law increase or decrease the number of its directors.

Filing of  
copy of  
by-law

(4) The Corporation shall file with the Minister of Consumer and Commercial Relations a certified copy of the by-law within ten days after the by-law has been confirmed by the shareholders of the Corporation.

Compliance  
with filing  
requirement

(5) Failure to comply with subsection (4) does not invalidate the by-law. 1974, c. 101, s. 4.

Head  
office

**5.** The head office of the Corporation shall be in The Municipality of Metropolitan Toronto. 1974, c. 101, s. 5.

Corporate  
objects

**6.** The objects of the Corporation are,

(a) to invest or otherwise participate in energy projects throughout Canada or elsewhere in order to,

(i) enhance the availability of energy in Ontario,

(ii) stimulate exploration for and the development of sources of energy,

- (iii) stimulate expansion of the capability to produce energy,
  - (iv) encourage investment in energy projects and the effective use of financial, human and other resources in energy projects, and
  - (v) encourage the development of processes and equipment that will avoid the wasteful use of energy and that will minimize harm to the environment;
- (b) to explore for, produce, manufacture, buy, transport, refine, sell and otherwise acquire, develop and deal in hydrocarbons and other forms of fuel and energy;
- (c) to subscribe for, purchase, take in exchange or in payment or otherwise acquire, hold and own securities of any other person, firm or corporation having objects altogether or in part similar to those of the Corporation or carrying on any business capable of being conducted so as directly or indirectly to benefit the Corporation;
- (d) to carry on any other trade or business that can be carried on advantageously as ancillary to the carrying out of the objects of the Corporation set out in clauses (a), (b) and (c); and
- (e) to guarantee, with or without security, the performance of contracts and the performance of the obligations or undertakings of any person, firm or corporation, including the payment of dividends, interest, principal and premium, if any, of or on any securities, mortgages or liabilities of any such person, firm or corporation. 1974, c. 101, s. 6.

**7.—**(1) The authorized capital of the Corporation is <sup>Authorized capital</sup> divided into,

- (a) 2,000,000 common shares without par value, to be issued for such consideration as the Board may from time to time determine; and
- (b) 20,000,000 special shares without par value which may be issued in one or more series for such con-

R.S.O. 1980,  
c. 54

sideration as the Board may determine and, subject to the provisions of subsections (3), (4) and (5) and to the filing of the statement and the issuance of the certificate in respect thereof referred to in subsection 29 (2) of the *Business Corporations Act*, the Board may fix before the issuance of a series the number of shares that is to comprise the series and the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the series.

Voting  
rights

(2) At all meetings of shareholders, the holders of the common shares shall be entitled to one vote for each common share held by them.

Idem

(3) The holders of the special shares shall not be entitled to vote at any meetings of the shareholders of the Corporation other than the meetings referred to in subsection 8 (3) but shall be entitled to notice of meetings of shareholders called for the purpose of authorizing the sale of the undertaking of the Corporation or a substantial part thereof.

Ranking  
of series  
of shares

(4) The special shares of each series shall rank on a parity with the special shares of every other series with respect to payment of dividends and on the repayment of capital in the event of the liquidation, dissolution or winding up of the Corporation whether voluntary or involuntary.

Redemption  
of shares

(5) If the special shares of any series are made redeemable or purchasable for cancellation by the Corporation, the price at which such shares may be redeemed or purchased for cancellation shall not exceed the amount of the issued capital of the Corporation with respect to such shares determined in accordance with the provisions of subsection 31 (2) of the *Business Corporations Act* together with a premium of not more than 20 per cent of that amount and any dividends accrued and unpaid on such shares. 1974, c. 101, s. 7.

Amendment  
of  
authorized  
capital

8.—(1) The Corporation may from time to time,

(a) increase its authorized capital;

(b) decrease,

(i) its authorized capital by cancelling shares, whether issued or unissued and whether with par value or without par value, or by reducing the par value of issued or unissued shares, or



- (ii) its issued capital, if it has shares without par value,

and, where it has more capital than it requires, authorize the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;

- (c) redivide its authorized capital into shares of lesser or greater par value;
- (d) consolidate or subdivide any of its shares without par value;
- (e) change any of its shares with par value into shares without par value;
- (f) change any of its shares without par value into shares with par value;
- (g) redesignate any class of shares;
- (h) reclassify any shares with or without par value into shares of a different class;
- (i) delete, vary or otherwise alter the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to a class of special shares.

(2) An amendment under subsection (1) shall be authorized by <sup>Authoriza-</sup>special resolution. <sup>tion</sup>

(3) If the amendment is to delete or vary a preference, <sup>Idem</sup>right, condition, restriction, limitation or prohibition attaching to a class of special shares or to create special shares ranking in any respect in priority to or on a parity with an existing class of special shares, then, in addition to the confirmation required by subsection (2), the resolution is not effective until it has been confirmed,

- (a) by 100 per cent of the holders of the shares of such class or classes of shares in writing; or
- (b) in writing by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of

such class or classes and after twenty-one days notice of the resolution and confirmation has been given by sending the notice to each of the holders of shares of such class or classes to his latest address as shown on the records of the Corporation and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the Corporation; or

- (c) if the preferences, rights, conditions, restrictions, limitations and prohibitions attaching to the shares of such class or classes so provide, by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose.

Articles of  
amendment

(4) For the purpose of bringing into effect an amendment under subsection (1), the Corporation shall deliver to the Minister of Consumer and Commercial Relations within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the Corporation and signed by two officers, or by one director and one officer, of the Corporation and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

- (a) the name of the Corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections (2) and (3); and
- (d) the date or dates of the confirmation of the resolution by the shareholders.

Decrease  
of  
capital

(5) Where the articles of amendment are to decrease the authorized or issued capital, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister of Consumer and Commercial Relations that the Corporation is not insolvent, and, if required by that Minister, by evidence that establishes to his satisfaction that no creditors object to the amendment.

*Pro  
forma  
balance  
sheet*

(6) The articles of amendment shall, if required by the Minister of Consumer and Commercial Relations, be accompanied by a *pro forma* balance sheet after giving effect to the proposed change.

Certificate

(7) The Minister of Consumer and Commercial Relations shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the Corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

(8) The amendment becomes effective upon the date set forth in the certificate of amendment and the capitalization of the Corporation is amended accordingly. 1974, c. 101, s. 8.

Effect of  
certificate

9. The Corporation may purchase any of its issued common shares in accordance with the provisions of the *Business Corporations Act*. 1974, c. 101, s. 9.

Purchase of  
common  
shares  
R.S.O. 1980,  
c. 54

10. The Board may from time to time,

Borrowing  
powers

- (a) borrow money upon the credit of the Corporation;
- (b) issue, sell or pledge bonds, debentures, notes or other similar obligations of the Corporation, whether secured or unsecured;
- (c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable, property of the Corporation including book debts, rights, powers, franchises and undertakings, to secure any bonds, debentures, notes or other similar obligations of the Corporation, whether secured or unsecured, or any money borrowed or other debt or liability, contingent or otherwise, of the Corporation; and
- (d) delegate the powers conferred on it under this section to such directors or officers of the Corporation and to such extent and manner as is set out in the by-laws or in specific resolutions of the Board. 1974, c. 101, s. 10.

11.—(1) The voting rights pertaining to any shares of the Corporation shall not be exercised when the shares are held in contravention of this Act or the by-laws of the Corporation.

Voting  
rights  
not to be  
exercised  
in certain  
cases

(2) The validity of a transfer of shares of the Corporation that has been recorded in a register of transfers of the Corporation or the validity of an allotment of shares of the Corporation

Transfer  
and  
allotment  
of shares  
held in  
contraven-  
tion of Act

Corporation is not affected by the holding of such shares in contravention of this Act or the by-laws of the Corporation.

Voting  
of  
shares  
held in  
contraven-  
tion of  
Act

(3) If the voting rights pertaining to any shares of the Corporation that are held in contravention of this Act or the by-laws of the Corporation are exercised at any meeting of the shareholders of the Corporation, no proceeding at that meeting is void by reason thereof, but any such proceeding, matter or thing is, at any time within one year from the date of commencement of the meeting at which such voting rights were exercised, voidable by a special by-law of the Corporation. 1974, c. 101, s. 11.

Not  
Crown  
agency  
R.S.O. 1980,  
c. 106

**12.** The Corporation is not an agent of Her Majesty nor a Crown agency for the purposes of the *Crown Agency Act*. 1974, c. 101, s. 12.

Interpre-  
tation

**13.—(1)** In this section, “non-resident” means any person other than,

- (a) a resident Canadian;
- (b) a corporation controlled by a resident Canadian or a group of resident Canadians;
- (c) a corporation the majority of the equity shares of which are held by resident Canadians and which is not controlled by one or more non-residents;
- (d) Her Majesty in right of Canada, Ontario or any other province of Canada or an agent or nominee of Her Majesty.

Equity  
shares  
owned or  
controlled  
by non-  
residents

(2) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction shall not at any time exceed 10 per cent of the total number of issued and outstanding equity shares of the Corporation.

Limit of  
individual  
ownership  
of equity  
shares

(3) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by any person or over which the person exercises control or direction shall not at any time exceed 5 per cent of the total number of issued and outstanding equity shares of the Corporation.

Idem

(4) Subsection (3) does not apply in respect of any equity shares of the Corporation beneficially owned by Her Majesty in right of Canada, Ontario or any other province of Canada or by an agent or nominee of Her Majesty.

Where  
person  
deemed  
beneficial  
owner of  
equity  
shares

(5) For the purposes of this section, a person shall be deemed to own beneficially any equity shares of the Cor-



poration owned beneficially by any associate or affiliate of such person.

(6) For the purposes of this section, a corporation is controlled by another corporation, individual or trust if it is in fact effectively controlled by such other corporation, individual or trust, directly or indirectly, or through the holding of shares of the corporation or any other corporation, or through the holding of the outstanding debt of a corporation or individual, or by any other means whether of a like or different nature. Controlled corporation

(7) In calculating the total number of equity shares of the Corporation beneficially owned, directly or indirectly, by any person or over which the person exercises control or direction for the purposes of this section, the total number shall be calculated as the total of all such equity shares, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. Calculation of total number of equity shares

(8) A shareholder of the Corporation shall, upon the request of the Board, file with the Board a statement verified by affidavit that sets out, Statement by shareholder

- (a) the total number of equity shares of the Corporation beneficially owned or deemed to be owned, directly or indirectly, by the shareholder or over which the shareholder exercises control or direction;
- (b) the name of any person other than the shareholder exercising control or direction over equity shares of the Corporation, the number of equity shares over which such control or direction is exercised and whether the person is a non-resident;
- (c) whether the shareholder or any other person in whose right or for whose use or benefit any equity share of the Corporation is held by the shareholder is a non-resident;
- (d) if the shareholder is a corporation or trust, information establishing that the shareholder is not a non-resident; and
- (e) such other matters as the Board considers relevant in the circumstances for the purposes of this section.

(9) Where a shareholder does not file with the Board a statement verified by affidavit that sets out the information Where statement not filed

requested by the Board pursuant to subsection (8) within thirty days from the day the statement was requested by the Board, the equity shares of the Corporation held by the shareholder shall be deemed to be held in contravention of this section until a statement verified by affidavit that sets out the information is filed with the Board.

Transfer  
of  
shares

(10) Within sixty days after the purchase or other acquisition of a share of the Corporation by any person, the certificate representing the share shall be presented to the Corporation for transfer into the name of the person, his designated nominee, trustee, executor or other personal representative, and shares not so presented for transfer shall be deemed to be held in contravention of this Act. 1974, c. 101, s. 13.

Cancellation  
of  
shares  
held in  
contravention  
of  
Act

**14.**—(1) Where any equity shares of the Corporation are held in contravention of this Act, the Corporation may, upon such notice to the holder thereof in such manner as may be prescribed by the by-laws, require such equity shares to be disposed of to a person or corporation who may be eligible to hold equity shares of the Corporation, within such period of time, not being less than sixty days nor more than 180 days or such longer period of time as may be approved by special resolution of the Corporation, as may be stipulated in the notice.

Idem

(2) Where the equity shares referred to in a notice given pursuant to subsection (1) have not been disposed of within the stipulated time, the Corporation may, at any time while the equity shares continue to be held in contravention of this Act, decrease its authorized and issued capital by cancelling the equity shares and the decrease is effective upon,

- (a) the deposit by the Corporation of the amount of the capital repayment payable with respect to the equity shares in a special account with a chartered bank or trust company; and
- (b) the giving by the Corporation of notice of cancellation to the holders of the equity shares in such manner as may be prescribed by the by-laws, including notice of the deposit referred to in clause (a),

and thereupon the equity shares are cancelled and the rights of the holder and of any beneficial owners of the equity shares are terminated except for the right of the holder thereof to receive out of the amount so deposited, without interest, the capital repayment payable with respect thereto upon presentation and surrender of the certificates representing

the said equity shares, and any interest payable on the deposit shall be paid to the Corporation.

(3) The Corporation is not bound to see to the application of the amount deposited or to the execution of any trust, whether express, implied or constructive, in respect of any equity shares cancelled under this section and the Corporation is not estopped by any certificates outstanding in respect of any equity shares cancelled. Application of moneys

(4) In determining as at any particular time the capital repayment to be made on equity shares of the Corporation for the purpose of this section, the capital repayment shall be, Repayment of moneys

(a) in the case of a share with a par value, an amount equal to the par value thereof; and

(b) in the case of a share without par value, an amount equal to the per share amount of the issued capital of the Corporation with respect to the class of shares in question determined in accordance with the provisions of subsection 31 (2) of the *Business Corporations Act* as at the day before the day the deposit referred to in clause (2) (a) is made, provided that if the class of shares in question is listed on a stock exchange, the capital repayment shall be an amount equal to the lesser of, R.S.O. 1980, c. 54

(i) the per share amount of the issued capital of the Corporation with respect to the class of shares in question determined in accordance with the provisions of subsection 31 (2) of the *Business Corporations Act* as at the day before the day the deposit referred to in clause (2) (a) is made, and

(ii) the last sale price per share of the class of shares in question on the stock exchanges on which such shares are listed on the last business day before the day the deposit referred to in clause (2) (a) is made.

(5) Where equity shares of the Corporation are cancelled pursuant to this section, the Corporation shall within thirty days of the date on which the cancellation is effected, file with the Minister of Consumer and Commercial Relations, a notice setting out the number of shares of the class cancelled and the date on which the cancellation was effected. Filing of notice

Idem

(6) Failure to comply with subsection (5) does not invalidate the decrease in the authorized and issued capital of the Corporation.

Non-  
application  
of s. 8

(7) The provisions of section 8 do not apply to any decrease of the authorized and issued capital of the Corporation pursuant to this section. 1974, c. 101, s. 14.

Liability  
of directors

**15.** In determining whether any equity shares are held in contravention of this Act or in making any determination in connection with any other circumstances relevant to the performance of their duties under this Act, the directors of the Corporation may rely upon any statement made in any statement submitted under subsection 13 (8) or rely upon their own knowledge of the circumstances and neither the Corporation nor the directors are liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge. 1974, c. 101, s. 15.

Authorized  
investments

**16.** The bonds, debentures, notes and other evidences of indebtedness of the Corporation and the shares of the Corporation are authorized investments for the purposes of the *Pension Benefits Act* and the *Trustee Act* and are authorized investments for,

R.S.O. 1980,  
cc. 373, 512

R.S.O. 1980,  
cc. 218, 249

(a) the funds of a corporation to which the *Loan and Trust Corporations Act* or the *Insurance Act* applies; and

(b) the moneys received by a trust company registered under the *Loan and Trust Corporations Act* for guaranteed investment or as deposits. 1974, c. 101, s. 16.

Shares  
may be  
acquired  
by  
Ontario

**17.—(1)** The Minister shall from time to time subscribe for, purchase and hold shares of the Corporation on behalf of Her Majesty in right of Ontario and shall hold at all times a majority of the issued shares of each class of equity shares of the Corporation.

Registration  
and voting  
of shares  
purchased by  
Ontario

(2) Shares of the Corporation purchased on behalf of Her Majesty in right of Ontario shall be registered in the books of the Corporation in the name of Her Majesty in right of Ontario as represented by the Minister and may be voted by the Minister or his duly authorized nominee on behalf of Her Majesty in accordance with such regulations as the Lieutenant Governor in Council may prescribe. 1974, c. 101, s. 17.

Authority  
to loan  
money to  
Corporation

**18.—(1)** The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms



and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold as evidence thereof bonds, debentures, notes or other evidences of indebtedness of the Corporation.

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. 1974, c. 101, s. 18. Payment of moneys

**19.** Notwithstanding any other provision of this Act, so long as at least 90 per cent of the issued shares of the Corporation are owned by Her Majesty in right of Ontario, no indebtedness shall be incurred by the Corporation for borrowed money and no securities of the Corporation shall be issued by the Corporation and no securities of the Corporation shall be sold or otherwise disposed of by Her Majesty in right of Ontario except with the approval of the Lieutenant Governor in Council. 1974, c. 101, s. 19. Where approval required to incur debt or issue securities

**20.** The moneys required for the purposes of section 17 may be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 101, s. 20, *revised*. Moneys

**21.** The Lieutenant Governor in Council may make regulations respecting any matter that the Lieutenant Governor in Council considers necessary relating to, Regulations

(a) the voting by the Minister or his duly authorized nominee in respect of shares of the Corporation held by the Minister;

(b) terms and conditions that shall apply to the making of loans to the Corporation by the Treasurer of Ontario. 1974, c. 101, s. 21.

**22.—(1)** The Corporation shall, after the close of each fiscal year of the Corporation, deliver to the Minister an annual report upon the affairs of the Corporation approved by the Board and the approval shall be evidenced by the signatures of two directors of the Corporation duly authorized to sign the report. Annual report

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

(3) In addition to making an annual report under subsection (1), the Corporation shall make to the Minister such other report on its affairs as the Minister from time to time may require. 1974, c. 101, s. 22. Additional reports



## CHAPTER 334

## Ontario Food Terminal Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Food Terminal Board;
- (b) "fruit and produce" includes dairy products, eggs, fish, honey, maple products, poultry and vegetables;
- (c) "manager" means the manager appointed under this Act;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "regulations" means the regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes;
- (g) "Terminal" means the Ontario Food Terminal.  
R.S.O. 1970, c. 313, s. 1.

2.—(1) The Ontario Food Terminal Board is continued as a body corporate and has a corporate seal in the form prescribed by the regulations.

Ontario  
Food  
Terminal  
Board

(2) The Board shall consist of not more than seven persons appointed by the Lieutenant Governor in Council.

Members  
of Board

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman.

Chairman,  
vice-  
chairman

(4) A majority of the members of the Board constitutes a quorum.

Quorum

(5) The members of the Board shall receive such fees and expenses as the Lieutenant Governor in Council may determine and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 313, s. 2.

Allowances  
and  
expenses

Officers,  
remunera-  
tion

**3.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint a manager of the Terminal and such officers as may be prescribed in the regulations and fix their remuneration, and the appointment of any person as a manager or other officer does not disqualify him from acting as chairman, vice-chairman or a member of the Board.

Employees

(2) Subject to the approval of the Board, the manager of the Terminal may appoint such employees as he considers necessary and fix their salaries or other remuneration. R.S.O. 1970, c. 313, s. 3.

Objects of  
Board

**4.**—(1) The objects of the Board are,

(a) to acquire, construct, equip and operate a wholesale fruit and produce market in The Municipality of Metropolitan Toronto or The Regional Municipality of York to be known as the Ontario Food Terminal and to acquire and operate such facilities for the transportation and handling of fruit and produce as may be necessary for the purposes of the Terminal; and

(b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

Power to  
borrow  
money and  
issue  
securities

(2) The Board has the power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine.

Additional  
powers  
R.S.O. 1980,  
c. 95

(3) The Board, in carrying out its objects, has the powers set out in sections 23 and 275 of the *Corporations Act*. R.S.O. 1970, c. 313, s. 4.

Agreements

**5.** The Board may rent space in the Terminal to such persons and upon such terms as the Board considers proper and may make such arrangement and enter into such agreement with any such person as it considers advisable in the circumstances. R.S.O. 1970, c. 313, s. 5.

Guarantee  
by Province

**6.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of the Province of Ontario to guarantee the payment of any securities issued by the Board, the repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board.



(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 313, s. 6. <sup>Form of guarantee</sup>

**7.** All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to, <sup>Application of moneys</sup>

- (a) operating expenses;
- (b) payment of interest on indebtedness; and
- (c) a sinking fund established by the Treasurer of Ontario for the repayment of securities guaranteed by the Treasurer of Ontario under subsection 6 (1) and for the retirement of any other indebtedness of the Board,

and any surplus moneys remaining in any year after paying for operating expenses, interest on indebtedness and the repayment of any part of the principal moneys payable in that year shall be used in reducing the cost of operating the Terminal, reducing the fees, rents or other charges charged or made by the Board or for the setting up of such reserve funds as the Board may determine. R.S.O. 1970, c. 313, s. 7.

**8.** The fiscal year of the Board commences on the 1st day of April in each year and ends on the 31st day of March in the following year. R.S.O. 1970, c. 313, s. 8. <sup>Fiscal year</sup>

**9.**—(1) The Board shall make a report annually to the Minister, and such report shall contain a financial statement certified by the auditor and such other matters relating to the work of the Board as the Minister may require. R.S.O. 1970, c. 313, s. 9 (1). <sup>Annual report</sup>

(2) A copy of the report shall be filed with the Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. R.S.O. 1970, c. 313, s. 9 (2); 1972, c. 1, s. 8. <sup>Idem</sup>

**10.** The books and accounts of the Board shall be audited and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate and such auditor shall make an annual report to the Treasurer of Ontario. R.S.O. 1970, c. 313, s. 10. <sup>Audit</sup>

**11.** The Board may be sued and may institute or defend proceedings in any court. R.S.O. 1970, c. 313, s. 11. <sup>Authority to sue and be sued</sup>

Markets  
in Toronto,  
York and  
Peel

**12.**—(1) No person shall establish or operate within The Municipality of Metropolitan Toronto, The Regional Municipality of York or those parts of The Regional Municipality of Peel that, on the 31st day of December, 1973 composed the County of Peel, any market for the sale by wholesale of fruit and vegetables except with the approval of the Board, but this section does not apply to any such market that was being regularly and continuously operated as of the 1st day of April, 1955, so long as it is not extended or enlarged. R.S.O. 1970, c. 313, s. 12 (1), *revised*.

Interpre-  
tation

(2) In subsection (1), the expression “any market for the sale by wholesale of fruit and vegetables” includes any premises at which fruit or vegetables are purchased for resale. R.S.O. 1970, c. 313, s. 12 (2).

Appeal to  
Minister

**13.** Where the Board refuses an approval requested under section 12, the applicant for approval may appeal from the decision of the Board to the Minister who, after affording the applicant an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final. 1971, c. 50, s. 61 (1).

Regulations

**14.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) prescribing the officers of the Board;
- (b) prescribing the powers and duties of the manager of the Terminal and of the officers of the Board;
- (c) prescribing the form of the seal of the Board;
- (d) respecting the operation, management and maintenance of the Terminal;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 313, s. 13.

Rules

**15.**—(1) Subject to the regulations, the Board may make rules with respect to,

- (a) the conduct of the Board's employees;
- (b) the conduct of the Board's tenants and their employees;
- (c) the conduct of any person on the Board's premises for any purpose;

(d) the use by any person of the Board's facilities and equipment. R.S.O. 1970, c. 313, s. 14.

(2) No rule hereafter made under subsection (1) takes effect until it is approved by the Minister. 1971, c. 50, s. 61 (2). <sup>Approval of Minister</sup>

**16.**—(1) Every person who contravenes any of the provisions of this Act or the regulations or any rule made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$50 for a first offence and to a fine of not more than \$200 or to imprisonment for a term of not more than thirty days, or both, for any subsequent offence. <sup>Offence</sup>

(2) Where an offence under subsection (1) is committed by means of a motor vehicle, the driver of the motor vehicle, not being the owner, is liable to the fine provided under subsection (1) and the owner of the motor vehicle is also liable to the fine provided under subsection (1) unless at the time the offence was committed the driver was in possession of the motor vehicle without the owner's consent. R.S.O. 1970, c. 313, s. 15. <sup>Motor vehicle owner and driver liable for penalties</sup>





## CHAPTER 335

## Ontario Geographic Names Board Act

## 1. In this Act,

Interpre-  
tation

(a) "Board" means The Ontario Geographic Names Board;

(b) "Minister" means the Minister of Natural Resources.  
R.S.O. 1970, c. 314, s. 1; 1972, c. 4, s. 12.

2.—(1) The Ontario Geographic Names Board is continued. Board  
continued

(2) The Board shall be composed of the Surveyor General, a secretary appointed by the Minister, and five other members appointed by the Lieutenant Governor in Council. Membership  
of the  
Board

(3) The Minister may appoint one of the members of the Board as chairman and one as vice-chairman. Chairman

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 314, s. 2. Remunera-  
tion, etc.

3.—(1) The Board shall meet at such times and places as the chairman appoints and the chairman shall appoint a time and place for a meeting on the request of three members. Meetings

(2) Four members constitute a quorum at any meeting of the Board. Quorum

(3) Except as provided in subsections (4) and (5), the chairman shall preside at all meetings of the Board. Duty of  
chairman

(4) In the absence of the chairman and subject to subsection (5), the vice-chairman shall preside at meetings of the Board. Duty of  
vice-  
chairman

(5) In the absence of the chairman and the vice-chairman from a meeting, the Board may appoint a member as temporary chairman to preside at the meeting. Temporary  
chairman

Duties of  
secretary

(6) The secretary shall,

- (a) keep a record of all proceedings of the Board;
- (b) conduct the correspondence of the Board; and
- (c) perform such other duties as the Board may direct.

Temporary  
secretary

(7) In the absence of the secretary, the Board may appoint a member to act *pro tempore* as secretary. R.S.O. 1970, c. 314, s. 3 (1-7).

Powers of  
Board

(8) The Board shall,

- (a) gather, collate and record information respecting names of places and geographical features within Ontario;
- (b) consult with and advise government ministries and agencies, municipalities, railway companies and other bodies or persons concerned with the selection of place names on the suitability of proposed names for places and geographical features;
- (c) consider and make recommendations respecting any proposed change in the name of any place or geographical feature already in use that may be duplicated by or be similar to any established name of a place or geographical feature or that for any other reason may be deemed or be represented to be inappropriate to the place or geographical feature to which it is applied;
- (d) collaborate with the Canadian Permanent Committee on Geographical Names respecting the selection of new geographical names, the elimination of alternative or duplicated names, the correct or preferred spelling of established names and such other matters respecting geographical names as may be of concern to the Board or the Committee;
- (e) supply information regarding geographical names to government ministries and agencies, cartographers, publishers, and any other persons engaged in the preparation of maps or other publications intended for official or public use; and
- (f) recommend to the Minister for approval the names of geographical features. R.S.O. 1970, c. 314, s. 3 (8); 1972, c. 1, s. 2.

**4.**—(1) The Minister may approve a name recommended by the Board for a geographical feature. Official names

(2) A name approved under subsection (1) shall be used by all government ministries and agencies in the preparation of maps and other publications. Approved names to be used on maps, etc. R.S.O. 1970, c. 314, s. 4; 1972, c. 1, s. 2.

**5.** No statute, regulation, order, contract, summons, information, writ or other document affecting legal rights shall be deemed to be invalid merely by reason of the use of a name of a geographical feature that has not been approved by the Minister under section 4. Statutes, etc., not affected R.S.O. 1970, c. 314, s. 5.





## CHAPTER 336

## Ontario Guaranteed Annual Income Act

## 1. In this Act,

Inter-  
pretation

- (a) "applicant" means a person who has applied for an increment;
- (b) "application" means an application for an increment under this Act;
- (c) "base calendar year" means the calendar year ending next before the commencement of the current fiscal year;
- (d) "basic monthly income" of a beneficiary for a month means,
  - (i) for any month in which the beneficiary is unmarried, and for which he is entitled to receive in the month a pension or a supplement, an amount equal to the sum of one-twelfth of his income for the base calendar year, plus the amount of any pension or supplement that he is entitled to receive in the month,
  - (ii) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive in the month an increment and a pension or a supplement, and for which the beneficiary is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, plus the amount of any pension or supplement that the beneficiary is entitled to receive in the month,
  - (iii) for any month throughout the whole of which the beneficiary is married to a person who is not entitled to receive in the month a pension or a supplement, and for which the

beneficiary is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, minus the lesser of,

(A) one-half of the amount of any pension that the beneficiary is entitled to receive in the month, or

(B) an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse,

plus

(C) the amount of any pension or supplement that the beneficiary is entitled to receive in the month,

(iv) for any month in which the beneficiary is unmarried, and for which he is not entitled to receive a pension or a supplement, an amount equal to one-twelfth of his income for the base calendar year,

(v) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive in the month an increment, and for which neither the beneficiary nor his spouse is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse,

(vi) for any month throughout the whole of which the beneficiary is married to a person who is not entitled to receive in the month an increment, a pension, or a supplement, and for which the beneficiary is not entitled to receive a pension or a supplement,

(A) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is less than an amount equal to twelve times the maximum amounts of pension and supplement that are authorized to be

paid in that month under the *Old Age Security Act* (Canada) to an unmarried person, R.S.C. 1970,  
c. O-6

an amount equal to one-twelfth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, or

(B) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is not less than an amount equal to twelve times the maximum amounts of pension and supplement that are authorized to be paid in that month under the *Old Age Security Act* (Canada) to an unmarried person, and is less than an amount equal to the sum of,

1. an amount equal to twenty-four times the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada),
2. an amount equal to twelve times the maximum amount of supplement that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, and

3. the amount of \$48.00,

an amount equal to the sum of the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada), plus the maximum amount of the supplement that is authorized to be paid in that month under the *Old Age Security Act* (Canada) to an unmarried person, or

(C) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is equal to or greater than the sum of the amounts described in paragraph 1, 2 or 3 of sub-subclause (B),

an amount equal to the sum of,

1. the amount equal to one-thirty-sixth of the result obtained by subtracting

from the amount of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse the sum of the amounts described in paragraphs 1 and 2 of sub-subclause (B) and \$12.00,

R.S.C. 1970,  
c. O-6

2. the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada), and

3. the maximum amount of the supplement that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, or

(vii) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive an increment and a pension or supplement, and for which the beneficiary is not entitled to receive a pension or supplement, an amount equal to one-twelfth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, plus the aggregate of,

(A) the amount of any increment, and

(B) the amount of any pension or supplement,

that the spouse of the beneficiary is entitled to receive in the month;

(e) "beneficiary" means a person to whom payment of an increment has been approved;

(f) "current fiscal year" means the fiscal year in respect of which an application for an increment is made by an applicant or on his behalf;

(g) "defined income" means any amount that is a supplement, a pension, a spouse's allowance, a payment similar to a supplement, pension or spouse's allowance under a law of a province of Canada, a private pension income, a benefit, other than a death benefit, under the *Canada Pension Plan* or a

R.S.C. 1970,  
c. C-5



provincial pension plan as defined in section 3 of the *Canada Pension Plan*, and any amount that is income prescribed for the purpose of this clause;

R.S.C. 1970.  
c. C-5

(h) "eligible person" means a person who,

- (i) has attained 65 years of age or such lesser age as may be prescribed,
- (ii) is actually residing in Ontario and is entitled to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada,
- (iii) has resided in Canada for the ten years immediately preceding the date on which his application is approved or, if he has not so resided in Canada, has either,

(A) been present in Canada, prior to those ten years and after attaining 18 years of age, for a continuous period of, or for periods the aggregate of which is, at least equal to three times the aggregate periods of absence from Canada during those ten years, and has resided in Canada for at least one year immediately preceding the date on which his application is approved, or

(B) resided in Canada, after attaining 18 years of age and prior to the date on which his application is approved, for a continuous period, or for periods the aggregate of which is, at least forty years,

and

- (iv) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining 18 years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period, or for periods the aggregate of which is, at least twenty years;

- (i) "fiscal year" means a period of twelve consecutive months commencing on the 1st day of April or on such other date as may be prescribed by the Lieutenant Governor in Council;
- (j) "guaranteed income limit" means, unless a higher amount is prescribed,

R.S.C. 1970,  
c. O-6

(i) in the case of a beneficiary who is described in any of subclauses 1 (d), (i), (iv) or (vi), or who is described in subclause 1 (d) (iii) and is married to a spouse who is not entitled to receive a spouse's allowance authorized to be paid under Part II.I of the *Old Age Security Act* (Canada), the amount of \$5,447.52;

(ii) in the case of a beneficiary who is described in subclause 1 (d) (ii) or (v), the amount of \$5,117.52;

(iii) in the case of a beneficiary described in subclause 1 (d) (iii) and who is married to a spouse who is entitled to receive a spouse's allowance authorized to be paid under Part II.I of the *Old Age Security Act* (Canada), the amount of \$4,889.88; and

(iv) in the case of a beneficiary described in subclause 1 (d) (vii), the amount of \$10,235.04.

R.S.C. 1952,  
c. 148

- (k) "income for the base calendar year" of a person or an applicant means his income for the calendar year ended next before the current fiscal year and computed in accordance with the *Income Tax Act* (Canada), minus,

1973,  
c. 211 (Can.)

(i) the amount of any increment,

(ii) the amount of any pension, supplement, spouse's allowance, or allowance under the *Family Allowances Act*, 1973 (Canada), and the amount of any similar payments made under a law of a province of Canada,

R.S.C. 1970,  
c. C-5

(iii) the amount of any death benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of the *Canada Pension Plan*, and

(iv) any amount required by paragraph 82 (1) (b) of the *Income Tax Act* (Canada) to be included in

income, or any amount prescribed for the purpose of this subclause,

that is included in computing that income, and means any amount deemed by section 5 to be income for the base calendar year;

- (l) "increment" means the monthly guaranteed annual income increment authorized to be paid under this Act, and is an amount equal to the amount by which one-twelfth of the guaranteed income limit applicable to a beneficiary exceeds the beneficiary's basic monthly income for the month for which the payment authorized under this Act is being made;
- (m) "Minister" means the Minister of Revenue;
- (n) "month throughout the whole of which the beneficiary is married" includes the month in which the beneficiary ceases to be married as a result of the death of his spouse or otherwise, and "month in which the beneficiary is unmarried" does not include the month in which he so ceases to be married;
- (o) "pension" means a monthly pension authorized to be paid under Part I of the *Old Age Security Act* <sup>R.S.C. 1970, c. O-6</sup> (Canada);
- (p) "prescribed" means prescribed by regulation;
- (q) "previous fiscal year" means the fiscal year next before the current fiscal year;
- (r) "qualifying date" means the 1st day of July, 1974 or, in the case of an individual who is not an eligible person on that date, the first date after the 1st day of July, 1974 on which such individual becomes an eligible person;
- (s) "regulation" means a regulation made under this Act;
- (t) "spouse" in relation to a beneficiary includes a person of the opposite sex who has lived with the beneficiary for three or more years where there is a bar to their marriage or for at least one year where there is no such bar and the beneficiary and that person have publicly represented themselves as man and wife;

R.S.C. 1970,  
c. O-6

- (u) "spouse's allowance" means a monthly payment authorized to be paid under Part II.1 of the *Old Age Security Act* (Canada);
- (v) "supplement" means a monthly guaranteed income supplement authorized to be paid under Part II of the *Old Age Security Act* (Canada). 1974, c. 58, s. 1; 1976, c. 33, s. 1; 1977, c. 50, s. 1; O. Reg. 1094/80.

Eligibility  
for  
monthly  
benefit

**2.—(1)** Subject to this Act and the regulations, a monthly benefit may be paid for any month after the month of June, 1977 to every person who is not eligible on the 30th day of June, 1977 to be paid an increment and who,

- (a) has attained sixty-five years of age or such lesser age as may be prescribed;
- (b) is actually resident in Ontario and is entitled to receive a partial monthly pension authorized to be paid under subsection 3 (1.1) of the *Old Age Security Act* (Canada) and to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada;
- (c) has resided in Canada, after attaining eighteen years of age and prior to the day on which his application is approved, for a period or periods the aggregate of which is not less than ten years and not more than forty years; and
- (d) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining eighteen years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period of, or for periods the aggregate of which is, at least twenty years.

Idem

(2) A person who is not entitled to an increment under this Act on or before the 30th day of June, 1977 is eligible to be paid a monthly benefit under this section only when on or after the 1st day of July, 1977, he becomes entitled to receive a supplement and if, on the day preceding the day on which his application is approved, he is a Canadian citizen residing in Ontario or, if not a Canadian citizen, is then legally resident in Canada and is residing in Ontario.

Amount of  
monthly  
benefit

(3) "monthly benefit" means the payment authorized by subsection (1) and is an amount equal to the maximum



increment payable for the month under this Act to a person in receipt of a supplement, minus \$1.00,

- (a) for every full \$24.00 of the income for the base calendar year of the person to whom the monthly benefit is paid, if he is unmarried;
- (b) for every full \$48.00 of the aggregate of the incomes for the base calendar year of the person and his spouse, if the person to whom the monthly benefit is paid is married to a spouse who is entitled to receive in the month a monthly benefit or an increment under this Act; or
- (c) for every full \$48.00 of the amount by which the aggregate of the incomes for the base calendar year of the person and his spouse exceeds the product of twelve times the maximum amount of pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, if the person to whom the monthly benefit is paid is married either to a spouse who is not entitled to receive in the month an increment, a pension, a supplement or a monthly benefit, or to a spouse who is entitled to receive in the month a spouse's allowance. R.S.C. 1970,  
c. O-6

(4) Notwithstanding subsections (1) to (3), where the result of an international agreement concluded in accordance with section 22.2 of the *Old Age Security Act* (Canada) is that a person resident in Ontario becomes entitled to receive a supplement, the Lieutenant Governor in Council may make regulations respecting the manner in which this Act shall apply to any such case or class of cases affected by the agreement, for adapting this Act thereto, and for determining such person's or class of persons' entitlement to, and the amount of, a monthly benefit under this Act, as appears to the Lieutenant Governor in Council to be necessary and advisable. Agreements  
with  
foreign  
countries

(5) In clauses 1 (a), (b) and (e) and in sections 3 to 17, "increment" shall, unless the context otherwise requires, include the monthly benefit authorized to be paid by this section. Inter-  
pre-  
ta-  
tion

(6) The Lieutenant Governor in Council may make regulations respecting the meaning of legal residence for the purpose of this section. 1977, c. 50, s. 2. Regulations

**3.**—(1) Subject to this Act and the regulations, an increment may be paid to every eligible person for each month in a fiscal year, such that the first payment shall be made for the month following the month in which the Payment of  
increment

beneficiary's qualifying date occurs or, where an application is received after the applicant's qualifying date, for the month following the month in which the application is approved. 1974, c. 58, s. 2 (1).

When  
increment  
not payable

(2) No increment may be paid to any eligible person for any month in any fiscal year unless an application therefor has been made by him or on his behalf and payment of the increment for months in that fiscal year has been approved by the Minister, and except as otherwise provided in this Act and the regulations, no increment may be paid to any eligible person, pursuant to an application therefor, for,

(a) subject to clause (d), any month more than eleven months before the month in which the application is received;

(b) any month prior to the 1st day of July, 1974;

(c) any month throughout the whole of which the beneficiary is absent from Ontario, having absented himself from Ontario, either before or after becoming a beneficiary, and having remained out of Ontario before that month for six consecutive months, exclusive of the month in which he left Ontario; or

(d) any month prior to the month following the month in which his qualifying date occurs. 1974, c. 58, s. 2 (2); 1976, c. 33, s. 2 (2); 1977, c. 50, s. 3 (1).

Suspension of  
payments

(3) Where, after becoming a beneficiary, a person remains out of Ontario for six consecutive months, exclusive of the month in which he left Ontario, payment of his increment in any subsequent month during which he is only temporarily resident in Ontario may, without a hearing, be suspended, but payment may be resumed with the month in which he returns to Ontario to become principally resident in Ontario.

Idem

(4) Where a beneficiary, either before or after becoming a beneficiary, is convicted of an offence and sentenced to a term of imprisonment exceeding ninety days, payment of his increment for any period he continues to be imprisoned shall be suspended, but may be resumed upon his release from imprisonment.

Idem

(5) Where a beneficiary fails to comply with any of the provisions of this Act or the regulations, payment of his increment may, without a hearing, be suspended, and where payment of an increment is so suspended, it shall be resumed when the beneficiary has complied with such provisions, and shall be paid in accordance with the amount

of any increment to which the beneficiary is then entitled. 1974, c. 58, s. 2 (3-5).

(6) When an applicant is, on his qualifying date or on the last day of the month in which his application is received, whichever is the later day, entitled to receive a full pension or a supplement for which he has not applied, his application shall not be approved until his entitlement to receive a full pension or a supplement is determined. 1974, c. 58, s. 2 (6); 1977, c. 50, s. 3 (2).

Approval  
where  
applicant  
entitled  
to full  
pension or  
supplement

(7) Where a beneficiary becomes entitled to receive a full pension or a supplement and does not apply therefor, the beneficiary's increment shall be reduced to that amount that would be payable to him were he receiving the full pension and, where applicable, the supplement to which he would be entitled upon making an application as provided in the *Old Age Security Act* (Canada). 1974, c. 58, s. 2 (7); 1977, c. 50, s. 3 (3).

Reduction of  
increment  
where  
beneficiary  
entitled  
to full  
pension or  
supplement

R.S.C. 1970,  
c. O-6

4.—(1) In order to facilitate the carrying out of the intent and purpose of this Act, or for the purpose of ascertaining any fact necessary to establish that a person who has applied for or is entitled to a supplement is or is not entitled to an increment, the Minister may act upon any decision made by the Minister of National Health and Welfare of the Government of Canada or by a court or tribunal to which an appeal is taken as provided for in the *Old Age Security Act* (Canada) or may act upon any statement or information furnished under that Act, and for the purpose of determining the entitlement of any person to an increment or of determining the amount thereof, the Minister may treat an application under the *Old Age Security Act* (Canada) for a supplement or a statement of income furnished under that Act as an application or statement, as the case requires, under this Act, and when so treated, such application or statement shall be deemed an application or statement under this Act.

Minister  
may act on  
information  
furnished  
under  
R.S.C. 1970,  
c. O-6

(2) The Minister is authorized to enter into and to proceed upon any arrangement with the Minister of National Health and Welfare of the Government of Canada for obtaining, exchanging and keeping confidential any information furnished under this Act or under the *Old Age Security Act* (Canada), or any arrangement that will, in the opinion of the Minister, facilitate the implementation and carrying out of the provisions of this Act and the payment of increments to which any eligible person is entitled under this Act, but if any such arrangement is made with a person who is not subject to the provisions of section 11, the Minister shall take all steps necessary

Idem

to ensure that any information coming to such person's knowledge concerning any beneficiary or applicant is not divulged or disclosed to any person not legally entitled thereto.

Delegation  
of power

(3) Where an arrangement is entered into under subsection (2), the Minister may in writing delegate the exercise or discharge of any power or duty conferred or imposed upon him by this Act, including a discretion, and where the exercise of any discretion is delegated, the Minister shall in writing define the extent to which and, where applicable, the terms upon which the discretion is exercisable, and every delegation made under this subsection may be revoked or may be made upon such conditions as the Minister may impose to ensure the carrying out of the purposes of this Act and compliance with its provisions. 1974, c. 58, s. 3.

Approval of  
application

5.—(1) Subject to section 3 and subject to the regulations, an application may be approved and increments paid from any date that is prior to that on which the application was received and that is neither earlier than the date eleven months before the application was received nor earlier than the earliest date in such prior period on which the applicant could be approved as an eligible person, and where the applicant would be an eligible person if his application were approved on or after the day on which his application was received, the application may be approved and increments paid from the first day on or after the receipt of the application on which the applicant could be approved as an eligible person, provided that if the applicant cannot be approved as an eligible person within the three months following the month in which his application was received, his application may be rejected without prejudice to his right to apply again when he can be approved as an eligible person. 1976, c. 33, s. 3, *part*; 1977, c. 50, s. 4.

Continua-  
tion of  
payments

(2) Subject to this Act and the regulations, an increment shall continue to be paid during the lifetime of a beneficiary, and shall cease with the payment for the month in which the beneficiary dies.

When  
increment  
payable

(3) Payment of an increment for any month shall be made at any time during the month, except that where payment of an increment in respect of any fiscal year is approved after the end of the month for which the first payment of the increment may be made, payments thereof for the month in which the payment of the increment is approved and for months preceding that month may be made during the two months following the month in which payment of the increment is approved.



(4) Where the increment to which a beneficiary is entitled in any month is more than zero and less than \$2.50, the beneficiary shall be paid an increment in the amount of \$2.50 for that month. 1974, c. 58, s. 4 (3-5). Minimum increment

**6.**—(1) Every applicant in respect of a current fiscal year shall in his application make a statement of his income for the base calendar year. 1974, c. 58, s. 5 (1). Statement of income to be made

(2) Where in any current fiscal year an applicant, or an applicant's spouse who has filed a statement as described in clause 7 (2) (a), has ceased to hold an office or employment previously held by him or has ceased to carry on a business previously carried on by him, the applicant or the applicant's spouse, as the case may be, may, not later than the end of the fiscal year next following the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing a statement as described in clause 7 (2) (a) in the case of the applicant's spouse, file a statement of his estimated income, other than his estimated income from that office or employment or from that business, as the case may be, for the calendar year in which he ceased to hold that office or employment or ceased to carry on that business, in which case, Additional statement where retirement in current fiscal year

(a) his income for that calendar year, calculated as described in clause 1 (k) and as though he had no income from that office or employment or from that business, as the case may be, and no defined income in that calendar year,

plus

(b) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (2); 1977, c. 50, s. 5 (1).

(3) Where in any current fiscal year an applicant, or an applicant's spouse who has filed a statement as described in clause 7 (2) (a), has suffered a loss of income due to termination or reduction of private pension income, the applicant or the applicant's spouse, as the case may be, may, not later than the end of the fiscal year next following the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of an applicant, or in addition to filing a statement as described in clause 7 (2) (a) in the case of the applicant's spouse, file Additional statement where loss of private pension income in current fiscal year

a statement of his estimated income for the calendar year in which he suffered that loss, other than private pension income received by him in that part of that calendar year that is before the month in which he suffered that loss, in which case,

- (a) his income for that calendar year, calculated as described in clause 1 (k) and as though he had no defined income for that calendar year,

plus

- (b) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered the loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (3); 1977, c. 50, s. 5 (2).

Additional  
statement  
where retire-  
ment before  
current  
fiscal year

(4) Where, in the base calendar year or in the last three months of the previous fiscal year, an applicant, or an applicant's spouse who has filed a statement as described in clause 7 (2) (a), has ceased to hold an office or employment previously held by him or has ceased to carry on a business previously carried on by him, the applicant or the applicant's spouse, as the case may be, may, not later than the end of the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing his statement as described in clause 7 (2) (a) in the case of the applicant's spouse,

- (a) where he ceased to hold that office or employment or to carry on that business in the base calendar year, file a statement of his estimated income for the calendar year ending in the current fiscal year, in which case his income for that calendar year shall be deemed to be his income for the base calendar year; or
- (b) where he ceased to hold that office or employment or to carry on that business in the last three months of the previous fiscal year, file a statement of his estimated income for the calendar year ending in the current fiscal year showing any income actually received by him in that calendar year from that office or employment or from that business, as the case may be, in which case,

- (i) his income for that calendar year, calculated as described in clause 1 (*k*) and as though he had no income from that office or employment or from that business, as the case may be, and no defined income in that calendar year,

plus

- (ii) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (4); 1977, c. 50, s. 5 (3).

(5) Where, in the base calendar year or in the last three months of the previous fiscal year, an applicant, or an applicant's spouse who has filed a statement as described in clause 7 (2) (*a*), has suffered a loss of income due to termination or reduction of private pension income, the applicant or the applicant's spouse, as the case may be, may, not later than the end of the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing a statement as described in clause 7 (2) (*a*) in the case of the applicant's spouse,

- (a) where he suffered that loss in the base calendar year, file a statement of his estimated income for the calendar year ending in the current fiscal year, in which case his income for that calendar year shall be deemed to be his income for the base calendar year; or
- (b) where he suffered that loss in the last three months of the previous fiscal year, file a statement of his estimated income for the calendar year ending in the current fiscal year, showing the amount of private pension income actually received by him in that part of that calendar year that is before the month in which he suffered that loss, in which case,

- (i) his income for that calendar year, calculated as described in clause 1 (*k*) and as though he had no defined income in that calendar year,

plus

- (ii) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered that loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (5); 1977, c. 50, s. 5 (4).

Where  
statement  
filed under  
subs. (2) or (3)

(6) Where, under subsection (2) or (3), a statement of estimated income is filed by an applicant or by an applicant's spouse, no increment calculated on the basis of that statement may be paid to the applicant for any month in the current fiscal year before,

- (a) the month next following the month shown in the statement as the month in which the applicant or the applicant's spouse, as the case may be, ceased to hold the office or employment previously held by him or ceased to carry on the business previously carried on by him; or
- (b) the month shown in the statement as the month in which the applicant or the applicant's spouse, as the case may be, suffered the loss of income due to termination or reduction of private pension income,

as the case may be.

Reduction  
of income  
for the base  
calendar  
year

(7) For the purpose of facilitating a payment of an increment to a beneficiary, and for the purpose of making the same amount of increment payable to every beneficiary whose increment, calculated in accordance with this Act (other than this subsection) and the regulations, is more or less in the same amount, the Minister may reduce,

- (a) the income for the base calendar year of any beneficiary by an amount that shall not exceed \$23.99; or



- (b) the aggregate incomes for the base calendar year of any beneficiary and the spouse of that beneficiary by an amount that shall not exceed \$47.99,

and such income or incomes, when so reduced, shall be deemed to be the income for the base calendar year of the beneficiary or the aggregate incomes for the base calendar year of the beneficiary and his spouse, as the case may be, but no reduction authorized by this subsection shall be made if it will reduce the amount of the increment to which a beneficiary is entitled. 1974, c. 58, s. 5 (6, 7).

7.—(1) Every application in respect of a fiscal year shall state whether the applicant is married on the day on which the application is made or the last day of the previous fiscal year, whichever is the earlier day, and, if so, the name and address of his spouse and whether, to his knowledge, his spouse is in receipt of an increment. Statement of marital status

(2) Subject to subsection (3), where an application in respect of a fiscal year is made by a person who, on the day on which his application is made or the last day of the previous fiscal year, whichever is the earlier day, is married, the application shall not be considered or dealt with unless, Statement by spouse

(a) the applicant's spouse has filed a statement in prescribed form of the spouse's income for the base calendar year; or

(b) an application in respect of the current fiscal year has been received from the applicant's spouse.

(3) Where an application in respect of a fiscal year is made by a person, the Minister, Direction by Minister where no statement filed by spouse or where spouses living apart

(a) may, without a hearing and after such investigation of the circumstances as he deems necessary, in any case where,

(i) no statement or application under subsection (2) is filed or received from the spouse of the person, or

(ii) he is satisfied that the person, as a result of circumstances not attributable to him or his spouse, was not living with his spouse in a dwelling maintained by him or his spouse at the time the application was made; and

(b) shall, where he is satisfied that on the last day of the previous fiscal year, the person was living

separate and apart from his spouse and had lived so separate and apart for a period of not less than one year immediately before that day,

direct that the application be considered and dealt with as though the person was not married on the last day of the previous fiscal year.

Review of  
direction

(4) Where, after the Minister has made a direction under subsection (3) with respect to an application made in respect of a fiscal year by a person other than a person to whom clause (3) (b) applies, a statement or application under subsection (2) is filed by or received from the applicant's spouse, the Minister may review the direction and may after his review direct that any increment paid to the applicant or his spouse for months in that fiscal year following the month in which the review is made be calculated as if,

- (a) the applicant and his spouse were in fact married on the last day of the previous fiscal year; or
- (b) the applicant and his spouse had not been married on the last day of the previous fiscal year.

Direction by  
Minister  
where  
marital  
status  
changes  
in current  
fiscal year

(5) Where an application in respect of a fiscal year is made by a person, and at any time in that fiscal year the person,

- (a) ceases to live separate and apart from his spouse in the case of a person referred to in clause (3) (b);
- (b) is married; or
- (c) ceases to be married as a result of the death of his spouse or otherwise,

the Minister may, where he is requested to do so by that person, direct that any increment paid to that person, or except where clause (c) applies, to that person or his spouse for any months in that fiscal year following the month in which the direction is made, be calculated,

- (d) where clause (a) or (b) applies, as though the person and his spouse had been married on the last day of the previous fiscal year; and
- (e) where clause (c) applies, as though the person had not been married on the last day of the previous fiscal year.

(6) Nothing in subsection (5) shall be construed to limit or restrict the authority of the Minister to make any direction under subsection (3) or (4), and no hearing is required to be held prior to the making of any such direction. 1974, c. 58, s. 6. Saving provision

8.—(1) Where an application in respect of a fiscal year is approved, and it is subsequently determined that the income of the applicant for the base calendar year calculated as required by this Act (hereinafter referred to as his "actual income") does not accord with his income (hereinafter referred to as his "shown income") calculated as required by this Act on the basis of a statement required or permitted by section 6 to be made or filed by him, Adjustment of increment

(a) where the applicant's actual income exceeds his shown income, any amount by which the increment paid to him for months in that fiscal year exceeds the increment that would have been paid to him for those months if his shown income had been equal to his actual income, may be deducted and retained out of any subsequent payments of such increment made to him in such manner as may be prescribed; and

(b) where the applicant's shown income exceeds his actual income, there shall be paid to him an amount by which the increment that would have been paid to him for months in that fiscal year if his shown income had been equal to his actual income, exceeds the increment paid to him for those months, except that no payment shall be made under this clause where the amount of such payment is less than \$5.00. 1974, c. 58, s. 7 (1); 1977, c. 50, s. 6.

(2) Notwithstanding subsection (1), no amount may be deducted and retained in a fiscal year under that subsection with respect to any increment paid to a beneficiary for months before the immediately preceding fiscal year, unless, Limitation

(a) the beneficiary made a wilful misrepresentation or committed fraud for the purpose of receiving or obtaining such payment of increment; or

(b) the amount by which,

(i) the increment paid to the beneficiary for months in that fiscal year and the immediately preceding fiscal year,

exceeds,

- (ii) the increment that would have been paid to the beneficiary for those months where his shown income had been equal to his actual income,

has been determined and an amount has been deducted and retained with respect thereto in accordance with this section, in which case the amount of the excess may be deducted and retained, in such manner as may be prescribed, out of any payment of increment made to him after any amount has been so deducted and retained. 1974, c. 58, s. 7 (2).

Minister  
to consider  
applications

9.—(1) The Minister forthwith upon receiving an application shall consider the application, and he may,

- (a) approve payment of an increment and determine the amount thereof that may be paid to the applicant; or
- (b) determine that no increment may be paid to the applicant.

Minister to  
furnish  
particulars

(2) Where particulars of the basis on which the amount of any increment that may be paid to an applicant was determined by the Minister are requested by the applicant, or where the Minister determines that no increment may be paid to an applicant, the Minister shall forthwith, in writing, notify the applicant of the basis upon which the amount was determined or of the basis upon which his determination was reached that no increment may be paid and shall notify the applicant of his right of appeal under this section.

Appeal

(3) Where an applicant is dissatisfied with a determination of the Minister under subsection (1) or with the decision of the Minister under section 3 to suspend payment of an increment or with a direction of the Minister under section 7, he may appeal against the determination, decision or direction as provided for in this section to the board and the decision of the board, subject only to variation by it upon application made to it by the applicant or the Minister based on evidence not previously considered by it, is final and binding on any question that is solely a question of fact.

Appeal how  
commenced

(4) An appeal under this section shall be commenced by serving by registered mail or by personal service on the



Minister and on the board a notice of appeal setting out the reasons for the appeal and the facts on which the appellant relies in support of his appeal.

(5) No appeal under this section with respect to a determination under subsection (1) shall be commenced after the expiration of sixty days from the day when written notice is given by the Minister under subsection (2) as to the particulars requested by an applicant or as to a determination of the Minister that no increment is payable. Time for commencing appeal

(6) Within sixty days of the day on which a notice of appeal is served on him, the Minister shall serve by registered mail or by personal service on the appellant, or on his agent for service shown in the notice of appeal, a reply setting out the facts and reasons relied on by the Minister in opposing the appeal. Reply of Minister

(7) At the time that a reply is served under subsection (6), the Minister shall forward a copy thereof to the board, together with any statement of particulars or statement of the basis of his determination given under subsection (2) or his decision made under section 3, that is material on the appeal. Documents to be sent to board  
1974, c. 58, s. 8 (1-7).

(8) When the reply of the Minister is served, the board shall appoint a time and place for the hearing of the appeal and shall so notify the appellant and the Minister, and the board shall hear the appeal, and the practice and procedure of the board, as set out in the *Ministry of Community and Social Services Act* and regulations made thereunder, shall, with necessary modifications, apply to an appeal under this section, including any right of appeal from the decision of the board on a question that is not solely a question of fact. Board to hear appeal  
1974, c. 58, s. 8 (1). R.S.O. 1980, c. 273

(9) In disposing of an appeal under this section, the board may, with necessary modifications, exercise all the powers conferred upon it under the *Ministry of Community and Social Services Act*. Powers of board  
1974, c. 58, s. 8 (9); 1976, c. 33, s. 4 (2).

(10) The board may extend the time within which an appeal may be commenced under subsection (5), either before or after the expiration of the time therein specified, where it is satisfied that there are *prima facie* grounds either for claiming relief pursuant to a hearing or for an appeal and that there are reasonable grounds for applying for the extension. Extension of time  
1974, c. 58, s. 8 (10).

(11) In this section, "board" means the Social Assistance Review Board established and constituted under the provi- Interpretation

R.S.O. 1980,  
c. 273

sions of the *Ministry of Community and Social Services Act*. 1976, c. 33, s. 4 (3).

Administra-  
tion of oaths

(12) Any officer or employee in the Ministry of Community and Social Services who is authorized to administer oaths, take and receive affidavits, declarations and affirmations and any officer or employee in the Ministry of Revenue who is authorized by the Minister, may administer oaths, take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, with respect to any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. 1977, c. 50, s. 7.

Recovery of  
increment  
to which  
recipient  
not entitled

**10.**—(1) Where a person receives or obtains the payment of an increment to which he is not entitled or the payment of an amount in excess of the increment to which he is entitled, he shall forthwith return to the Minister such increment or excess amount, as the case may be.

Idem

(2) Where a person receives or obtains the payment of an increment to which he is not entitled or the payment of an amount in excess of the increment to which he is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced,

(a) at any time, where that person made a wilful misrepresentation or committed fraud for the purpose of receiving or obtaining the amount or excess amount; or

(b) where clause (a) is not applicable, at any time before the end of the fiscal year next following the fiscal year in which the amount or excess amount was received or obtained,

and where that person is or subsequently becomes a beneficiary, the amount of any such indebtedness may, subject to subsection 8 (2), be deducted and retained out of any increment payable to him or out of any payment to which he may be entitled at any time thereafter under subsection 7 (7) of the *Income Tax Act*, and where applicable, the amount of any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act*. 1974, c. 58, s. 9.

R.S.O. 1980,  
cc. 213, 161

Information  
to be  
confidential

**11.**—(1) Except as provided in subsection (2), all information obtained under this Act by any officer, employee or

agent of the Ministry of Revenue is privileged and confidential, and no such officer, employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information.

(2) Any information referred to in subsection (1) that is obtained by any officer, employee or agent of the Ministry of Revenue in the administration of this Act may be communicated to any officer or employee of the Department of National Health and Welfare of the Government of Canada or of the Department of National Revenue of the Government of Canada, or of the Ministry of Treasury and Economics, or of the Ministry of Community and Social Services, or to any person or class of persons prescribed by the Lieutenant Governor in Council and approved by the Minister of National Health and Welfare of the Government of Canada who are administering a program of assistance payments similar in nature to the payments authorized under this Act. Disclosure of information

(3) Notwithstanding any other Act or law, no officer, agent or employee of Her Majesty shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing any such information. Evidence and production of documents

(4) Subsections (1) and (3) do not apply in respect of proceedings relating to the administration or enforcement of this Act. 1974, c. 58, s. 10. Application of subss. (1), (3)

**12.** An increment shall not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security and increment is void. 1974, c. 58, s. 11. Increment not assignable

**13.**—(1) Where an applicant or a beneficiary entitled to receive an increment dies, the Minister may pay any increment to which the applicant or beneficiary was entitled at his death to the executor or administrator of his estate or, if no executor or administrator is, in the opinion of the Minister, likely to be appointed or granted letters probate, to such applicant's or beneficiary's surviving spouse or to the person who appears to the Minister to be discharging the duties of executor or administrator of the deceased applicant's or beneficiary's estate, although not so constituted or appointed by the Surrogate Court. Payment after death

Where  
increment  
may be  
paid to a  
trustee, etc.

(2) In the case of a beneficiary,

(a) for whom a committee or trustee is acting; or

(b) who, in the opinion of the Minister, is using or is likely to use his increment otherwise than for his own benefit, or is incapacitated or is incapable of handling his own affairs,

the Minister may appoint a person to act on behalf of the beneficiary, and the increment may be paid for the benefit of the beneficiary to the committee or trustee or to the person so appointed.

Compensa-  
tion

(3) A person acting for a beneficiary under subsection (2) is not entitled to any fee or other compensation or reward or to any reimbursement for any costs or expenses incurred by him. 1974, c. 58, s. 12.

Liability  
to Crown  
not to  
increase  
increment

**14.** Where a deduction is made from an increment payable under this Act or from any payment under a statute of Canada or of a province of Canada that is relevant in determining the income for the base calendar year of the person to whom any increment may be paid under this Act, and the deduction is made by the Crown to reduce or discharge a liability to the Crown of the person, such person's entitlement under this Act shall not thereby be increased. 1974, c. 58, s. 13.

Investigation

**15.—**(1) Any person authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are kept and,

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of an increment payable under this Act;

(b) examine property described in any conveyance or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books or records or in such



application, or the amount of any increment payable under this Act;

- (c) require any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations made under this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for an increment under this Act.

Production  
of  
documents  
and  
records to  
Minister

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Copies of  
documents  
and  
records

(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Compliance

## Offence

(5) Every person who fails to comply with or contravenes this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on conviction to a fine of \$100 or \$25 for each day during which the default continues, whichever is the greater. 1977, c. 50, s. 8.

## Idem

**16.**—(1) Every person who,

- (a) knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a payment of an increment under this Act to which he is not entitled or to which a person on whose behalf he is acting is not entitled;
- (b) knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of an increment under this Act to which he is not entitled or to which the person on whose behalf he is acting is not entitled;
- (c) knowingly, converts to his own use a payment of an increment under this Act to which he is not entitled;  
or
- (d) contravenes section 11,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$300 for each offence. 1974, c. 58, s. 15 (1); 1977, c. 50, s. 9.

Information  
may be for  
more than  
one offence

(2) An information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

## Limitation

(3) An information in respect of an offence under this Act shall be laid within five years of the time when the offence was committed. 1974, c. 58, s. 15 (2, 3).

## Regulations

**17.**—(1) The Minister may make regulations prescribing any form, notification or statement to be prescribed or that is required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, notification or statement shall be completed and what information it shall contain. 1974, c. 58, s. 16 (1).

## Idem

(2) The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry

out effectively the intent and purpose of this Act, and without limiting the generality of the foregoing, may make regulations,

- (a) prescribing the amount of the guaranteed income limit;
- (b) prescribing the evidence to be furnished to the Minister to establish facts relevant to the entitlement of any person to receive an increment and to establish the amount of such increment;
- (c) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (d) prescribing amounts that may be included in or excluded from defined income or income for the base calendar year;
- (e) defining intervals of absence from Ontario that shall be deemed not to have interrupted residence in Ontario;
- (f) providing for the suspension of payment of an increment during any investigation into the eligibility of a beneficiary, and the reinstatement or resumption of the payment thereof;
- (g) prescribing the manner in which any amount required by this Act to be deducted and retained out of any increment shall be so deducted and retained;
- (h) providing for the making of any application, statement or notification, or the doing of any other act or thing required or permitted by this Act, by any person or agency, and for the payment of a benefit to any person or agency on behalf of any other person or beneficiary where it is established, in such manner and by such evidence as may be prescribed, that such other person or beneficiary is, by reason of infirmity, illness, insanity or other cause, incapable of managing his own affairs, and prescribing the manner in which any increment authorized to be paid to any such person or agency shall be administered and expended for the benefit of the beneficiary and accounted for;
- (i) fixing a date, other than the 1st day of April, for the commencement of a fiscal year for the purposes of this Act, and extending or abridging the period

of any fiscal year, current fiscal year or previous fiscal year to provide for the orderly transition to the prescribed fiscal year from the fiscal year in effect prior to the prescribing of a different fiscal year under this clause;

- (j) defining the meaning of private pension income for the purposes of this Act and the regulations;
- (k) prescribing, for the purposes of clause 1 (h), an age that is less than sixty-five years of age;
- (l) altering the provisions of clause 1 (h) by reducing or eliminating any period of residence therein specified; and
- (m) prescribing dates other than those specified in subsection 5 (1) as of which the application may be approved before or after it was received. 1974, c. 58, s. 16 (2); 1976, c. 33, s. 5.

Idem

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1974, c. 58, s. 16 (3).



## CHAPTER 337

## Ontario Heritage Act

## 1. In this Act,

Interpre-  
tation

- (a) "alter" means to change in any manner and includes to restore, renovate, repair or disturb and "alteration" has a corresponding meaning;
- (b) "Board" means the Ontario Municipal Board;
- (c) "donation" includes any gift, testamentary disposition, deed or trust or other form of contribution;
- (d) "Foundation" means The Ontario Heritage Foundation;
- (e) "inspect" includes to survey, photograph, measure and record;
- (f) "licence" means a licence issued under this Act;
- (g) "local advisory committee" means a local architectural conservation advisory committee;
- (h) "Minister" means the Minister of Culture and Recreation;
- (i) "municipality" means a city, town, village, township or improvement district and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 68 of that Act; R.S.C. 1970, c. I-6
- (j) "object" means an object of archaeological or historic significance;
- (k) "owner" means the person registered on title in the proper land registry office as owner;
- (l) "permit" means a permit issued under this Act;

- (*m*) "person" includes a municipality;
- (*n*) "regulations" means the regulations made under this Act;
- (*o*) "Review Board" means the Conservation Review Board. 1974, c. 122, s. 1.

## PART I

### HERITAGE CONSERVATION, PROTECTION AND PRESERVATION

Admini-  
stration  
of Act

**2.** The Minister is responsible for the administration of this Act, and he may determine policies, priorities and programs for the conservation, protection and preservation of the heritage of Ontario. 1974, c. 122, s. 2.

Officers  
and staff  
R.S.O. 1980,  
c. 418

**3.** Such officers, clerks and servants may be appointed or transferred under the *Public Service Act* as are considered necessary from time to time for the administration of this Act. 1974, c. 122, s. 3.

## PART II

### ONTARIO HERITAGE FOUNDATION

Interpre-  
tation

**4.** In this Part, "property" means real and personal property. 1974, c. 122, s. 4.

Ontario  
Heritage  
Foundation  
continued

**5.—(1)** The Ontario Heritage Foundation is continued as a body corporate.

Composition  
of  
Foundation

**(2)** The Foundation shall consist of a board of directors of not fewer than twenty-one persons who shall be appointed by the Lieutenant Governor in Council.

Board to  
manage  
affairs of  
Foundation

**(3)** The board of directors shall manage and conduct the affairs of the Foundation.

Chairman

**(4)** The Lieutenant Governor in Council shall designate one of the directors to be the chairman and one or more of them to be vice-chairman or vice-chairmen of the board of directors.

Term of  
office

**(5)** A director may be appointed for a term not exceeding three years, but may be eligible for reappointment except

that a director shall not serve for more than two consecutive terms, but any such director shall be again eligible for appointment after the expiration of one year following completion of two consecutive terms.

(6) A majority of the directors constitutes a quorum. Quorum

(7) Where a vacancy occurs for any reason in the office of director, the vacancy may be filled by appointment by the Lieutenant Governor in Council and a person so appointed shall hold office for the remainder of the term of his predecessor. 1974, c. 122, s. 5. Vacancy

6. The *Corporations Act* does not apply to the Foundation. R.S.O. 1980,  
c. 95  
not to apply

7. The objects of the Foundation are, Objects  
of  
Foundation

- (a) to advise and make recommendations to the Minister on any matter relating to the conservation, protection and preservation of the heritage of Ontario;
- (b) to receive, acquire and hold property in trust for the people of Ontario;
- (c) to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;
- (d) to preserve, maintain, reconstruct, restore and manage property of historical, architectural, archaeological, recreational, aesthetic and scenic interest;
- (e) to conduct research, educational and communications programs necessary for heritage conservation, protection and preservation. 1974, c. 122, s. 7.

8. The directors of the Foundation may, subject to the approval of the Minister, make such by-laws as are necessary for, By-laws

- (a) the administration of the Foundation;
- (b) the establishment, appointment and condition of membership therein;
- (c) the establishment of such honorary offices as they consider desirable, and the appointment of persons thereto; and
- (d) any other matter necessary for carrying out the objects of the Foundation.

Powers  
of  
Foundation

**9.** The Foundation may advise and make recommendations to the Minister on any matter relating to property of historical, architectural, archaeological, recreational, aesthetic or scenic interest and to advise and assist the Minister in all matters to which this Act refers and in all matters as are assigned to it by or under any Act or regulation thereunder. 1974, c. 122, s. 9.

Further  
powers  
of  
Foundation

**10.—(1)** The Foundation, in accordance with the policies and priorities determined by the Minister for the conservation, protection and preservation of the heritage of Ontario and with the approval of the Minister, may,

- (a) receive, acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, and hold, preserve, maintain, reconstruct, restore, and manage property of historical, architectural, archaeological, recreational, aesthetic and scenic interest for the use, enjoyment and benefit of the people of Ontario;
- (b) enter into agreements, covenants and easements with owners of real property, or interests therein, for the conservation, protection and preservation of the heritage of Ontario;
- (c) conduct and arrange exhibits or other cultural or recreational activities to inform and stimulate the interest of the public in historical, architectural and archaeological matters;
- (d) enter into agreements with prospective donors, subject to any conditions governing the use of property;
- (e) enter into agreements with persons respecting any matter within the objects of the Foundation, and to provide financial assistance by way of grant or loan to such persons pursuant to any such agreements with regard to educational, research and communications programs, the maintenance, restoration and renovation of property and the management, custody and security of property;
- (f) engage the services of experts and other persons;
- (g) subject to the terms of any trust in connection with such property, dispose of property by sale, lease or any other manner and execute such deeds or other instruments as may be required to effect such disposal;



- (h) borrow money for the purpose of carrying out the objects of the Foundation where a guarantee is provided under section 18;
- (i) invest its funds, but only in such classes of securities as trustees are permitted to invest in under the laws of Ontario;
- (j) undertake programs of research into and documentation of matters relating to the heritage of Ontario and cause information to be compiled and studies to be undertaken;
- (k) with the consent of the owner of the property, place markers, signs, cairns or other interpretive facilities for the interest and guidance of the public;
- (l) provide assistance, advisory services and training programs to individuals, institutions, agencies and organizations in Ontario having similar aims and objectives as the Foundation.

(2) Notwithstanding subsection (1), where in his opinion it is necessary in order to ensure the carrying out of the intent and purpose of this Act, the Minister may exercise the powers of the Foundation under subsection (1). 1974, c. 122, s. 10. Minister may exercise powers of Foundation

**11.**—(1) The Foundation is, for all purposes of this Act, an agent of Her Majesty in right of Ontario, and its powers under this Act may be exercised only as an agent of Her Majesty in right of Ontario. Crown agency

(2) Property acquired by the Foundation is the property of Her Majesty in right of Ontario and title thereto may be vested in the name of Her Majesty in right of Ontario or in the name of the Foundation. 1974, c. 122, s. 11. Property

**12.**—(1) The Foundation shall maintain a fund, hereinafter called the “general fund”, which shall, subject to section 13, consist of moneys received by it from any source, including grants made under section 17. General fund

(2) The Foundation may, subject to any conditions attached to moneys comprising the general fund, disburse, expend or otherwise deal with any of its general fund for the purposes of any of the objects of the Foundation and to defray any expenses in connection therewith. 1974, c. 122, s. 12. Operating expenditures

**13.**—(1) The Foundation shall maintain a reserve fund, which shall consist of moneys received by the Foundation expressly for allocation thereto. Reserve fund

## Income

(2) The income of the reserve fund, or any part thereof, may be paid into and form part of the general fund.

Capital  
expendi-  
tures

(3) The Foundation shall not expend any of the capital of its reserve fund, except for investment under clause 10 (1) (i), without the consent of the Lieutenant Governor in Council. 1974, c. 122, s. 13.

Remunera-  
tion

**14.** The members of the board of directors of the Foundation shall be paid such remuneration for their services as the Lieutenant Governor in Council determines and shall be paid proper travelling and other expenses incurred in the work of the Foundation. 1974, c. 122, s. 14.

Exemption  
from  
taxation

**15.** The Foundation, its real and personal property and business and income are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature, but this section does not apply to any property of the Foundation while leased under clause 10 (1) (g) to a person or organization not registered as a charitable organization under the *Income Tax Act* (Canada). 1974, c. 122, s. 15.

R.S.C. 1952,  
c. 148

## Audit

**16.** The accounts and financial transactions of the Foundation shall be audited annually by the Provincial Auditor. 1974, c. 122, s. 16.

## Grants

**17.** The Minister may, out of the moneys appropriated therefor by the Legislature, make grants to the Foundation at such times, in such amounts and upon such terms and conditions as he considers advisable and may allocate any grants so made to the general fund or reserve fund. 1974, c. 122, s. 17.

Guarantee  
of loans

**18.** Upon the recommendation of the Minister, the Lieutenant Governor in Council may, upon such terms as he considers proper, agree to guarantee and may guarantee the payment of any loan to the Foundation, or any part thereof, together with interest thereon, borrowed for the purpose of carrying out the objects of the Foundation. 1974, c. 122, s. 18.

Form of  
guarantee

**19.** The form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer of Ontario or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, Ontario is liable for the payment of the loan or part thereof and interest thereon guaranteed according to the terms of the guarantee. 1974, c. 122, s. 19.

Payment  
of  
guarantee

**20.** The Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfil the require-

ments of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario. 1974, c. 122, s. 20.

**21.**—(1) The Foundation shall make a report annually to the Minister upon the affairs of the Foundation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. <sup>Annual report</sup>

(2) The Foundation shall make such further reports to the Minister as the Minister from time to time may require. 1974, c. 122, s. 21. <sup>Reports</sup>

**22.**—(1) Any easement or covenant entered into by the Foundation may be registered against the real property affected in the proper land registry office. <sup>Easements</sup>

(2) Where an easement or covenant is registered against real property under subsection (1), such easement or covenant shall run with the real property and the Foundation may enforce such easement or covenant, whether positive or negative in nature, against the owner or any subsequent owners of the real property and the Foundation may enforce such easement or covenant even where it owns no other land which would be accommodated or benefitted by such easement or covenant. <sup>Idem</sup>

(3) Any easement or covenant entered into by the Foundation under subsection (1) may be assigned to any person and such easement or covenant shall continue to run with the real property, and the assignee may enforce the easement or covenant as if it were the Foundation and it owned no other land which would be accommodated or benefitted by such easement or covenant. 1974, c. 122, s. 22. <sup>Assignment</sup>

(4) Where there is a conflict between the provisions of an easement or covenant entered into by the Foundation and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail. 1979, c. 41, s. 1. <sup>Conflict</sup>

**23.** The Foundation shall keep a Register in which particulars of all properties designated under Parts IV and VI shall be entered. 1974, c. 122, s. 23. <sup>Register</sup>

## PART III

### CONSERVATION REVIEW BOARD

**24.**—(1) The Review Board known as the “Conservation Review Board” is continued and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council. <sup>Review Board</sup>

Term of  
office

(2) A member of the Review Board may be appointed for a term not exceeding three years, but may be eligible for reappointment except that a member shall not serve for more than two consecutive terms, but any such member shall be again eligible for appointment after the expiration of one year following completion of two consecutive terms.

Chairman

(3) The Lieutenant Governor in Council shall appoint one of the members of the Review Board as chairman and another of the members as vice-chairman.

Quorum

(4) One member of the Review Board constitutes a quorum.

Remunera-  
tion and  
expenses

(5) The members of the Review Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines.

Profes-  
sional  
assistance

(6) Subject to the approval of the Minister, the Review Board may engage persons to provide professional, technical or other assistance to the Review Board.

Hearings

(7) The Review Board shall hold such hearings and perform such other duties as are assigned to it by or under this or any other Act or regulation thereunder. 1974, c. 122, s. 24.

Expendi-  
tures

**25.** The moneys required for the purposes of the Review Board shall be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 122, s. 25.

## PART IV

### CONSERVATION OF BUILDINGS OF HISTORIC OR ARCHITECTURAL VALUE

#### DESIGNATION OF PROPERTIES BY MUNICIPALITIES

Interpre-  
tation

**26.** In this Part,

(a) “designated property” means property in respect of which a by-law under this Part is in effect designating such property;

(b) “property” means real property and includes all buildings and structures thereon. 1974, c. 122, s. 26.

Register

**27.**—(1) A Register of all properties designated under this Part within a municipality shall be kept by the clerk of the municipality in which the property is situate and shall contain,

(a) a legal description of the designated property;

(b) the name and address of the owner; and



- (c) a short statement of the reason for designation of the property.

(2) The clerk of a municipality shall issue extracts from the Register referred to in subsection (1) to any person on payment of the fee prescribed by the regulations. 1974, c. 122, s. 27. <sup>Extracts</sup>

**28.** The council of a municipality may, by by-law, establish a local advisory committee to be known as the Local Architectural Conservation Advisory Committee composed of not fewer than five members appointed by the council to advise and assist the council on all matters relating to this Part and Part V. 1974, c. 122, s. 28. <sup>Local Architectural Conservation Advisory Committee</sup>

**29.—**(1) Subject to subsection (2), where the council of a municipality intends to designate a property within the municipality to be of historic or architectural value or interest, it shall cause notice of intention to designate to be given by the clerk of the municipality in accordance with subsection (3). <sup>Proposed designation</sup>

(2) Where the council of a municipality has appointed a local advisory committee, the council shall, before giving notice of its intention to designate a property under subsection (1), consult with its local advisory committee. <sup>Consultation</sup>

(3) Notice of intention to designate under subsection (1) shall be, <sup>Notice of intention</sup>

(a) served on the owner of the property and on the Foundation; and

(b) published in a newspaper having general circulation in the municipality.

(4) Notice of intention to designate under subsection (1) shall contain, <sup>Contents of notice</sup>

(a) an adequate description of the property so that it may be readily ascertained;

(b) a statement of the reason for the proposed designation; and

(c) a statement that notice of objection to the designation may be served on the clerk within thirty days of the date of the first publication of the notice of intention in a newspaper having general circulation in the municipality.

(5) A person who objects to a proposed designation shall, within thirty days after the date of first publication of the notice of intention in a newspaper having general circulation in the municipality, serve on the clerk of the municipality <sup>Objection</sup>

a notice of objection setting out the reason for the objection and all relevant facts.

Where no  
notice of  
objection

(6) Where no notice of objection is served within the thirty-day period under subsection (5), the council shall,

(a) pass a by-law designating the property and cause a copy of the by-law together with the reasons for the designation,

(i) to be registered against the property affected in the proper land registry office,

(ii) to be served on the owner and the Foundation,

and publish a notice of such by-law in a newspaper having general circulation in the municipality; or

(b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (3).

Referral to  
Review Board

(7) Where a notice of objection has been served under subsection (5), the council shall, upon expiration of the thirty-day period under subsection (4), refer the matter to the Review Board for a hearing and report.

Hearing

(8) Pursuant to a reference by the council under subsection (7), the Review Board, as soon as is practicable, shall hold a hearing open to the public to determine whether the property in question should be designated, and the council, the owner, any person who has filed an objection under subsection (5) and such other persons as the Review Board may specify, are parties to the hearing.

Place of  
hearing

(9) A hearing under subsection (8) shall be held at such place in the municipality as the Review Board may determine, and notice of such hearing shall be published in a newspaper having general circulation in the municipality at least ten days prior to the date of such hearing.

Review  
Board  
may  
combine  
hearings

(10) The Review Board may combine two or more related hearings and conduct them in all respects and for all purposes as one hearing.

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(11) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under subsection (8).

(12) Within thirty days after the conclusion of a hearing <sup>Report</sup> under subsection (8), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the property should be designated under this Part and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing.

(13) Where the Review Board fails to make a report within <sup>Failure to report</sup> the time limited by subsection (12), such failure does not invalidate the procedure.

(14) After considering the report under subsection (12), the <sup>Decision of council</sup> council without a further hearing shall,

- (a) pass a by-law designating the property and cause a copy of the by-law together with the reasons for the designation,
  - (i) to be registered against the property affected in the proper land registry office,
  - (ii) to be served on the owner and the Foundation,

and publish a notice of such by-law in a newspaper having general circulation in the municipality; or

- (b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (3),

and its decision is final. 1974, c. 122, s. 29.

**30.** Where a notice of intention to pass a by-law designating a property is served and published under subsection 29 (3) and has not been withdrawn under clause 29 (6) (b) or 29 (14) (b), the provisions of sections 33 and 34 apply to the owner of such property as if it were designated property under this Part and any permit issued by a municipality prior to the service and publication of such notice of intention that allows the alteration or demolition of such property, where the alteration and demolition has not been completed, is void. <sup>Permit to alter or demolish void</sup> 1974, c. 122, s. 30.

**31.**—(1) Subject to subsection (2), where the council of a <sup>Repeal of by-law</sup> municipality intends to repeal a by-law or part thereof design-

nating property, it shall cause notice of intention to repeal the by-law or part thereof to be given by the clerk of the municipality in accordance with subsection (3).

Consulta-  
tion

(2) Where the council of a municipality has appointed a local advisory committee, the council shall, before repealing a by-law or part thereof designating property, consult with its local advisory committee.

Notice of  
intention

(3) Notice of intention to repeal a by-law or part thereof under subsection (1) shall be,

(a) served on the owner of the property and on the Foundation; and

(b) published in a newspaper having general circulation in the municipality.

Contents  
of notice

(4) Notice of intention to repeal a by-law or part thereof under subsection (1) shall contain,

(a) an adequate description of the property so that it may be readily ascertained;

(b) a statement of the reason for the proposed repealing by-law; and

(c) a statement that notice of objection to the repealing by-law may be served on the clerk within thirty days of the date of the first publication of the notice of intention in a newspaper having general circulation in the municipality.

Objection

(5) A person who objects to a proposed repealing by-law shall object to the repealing by-law in the manner set out in subsection 29 (5).

Applica-  
tion

(6) Subsections 29 (6) to (14) as they apply to an intention to designate a property shall apply with necessary modifications to an intention to repeal a by-law or part thereof designating a property under this section.

Deletion  
from  
Register

(7) Where the council of a municipality passes a by-law repealing the designation of a property under this section, it shall cause the clerk of the municipality to delete any reference to the property from the Register referred to in subsection 27 (1). 1974, c. 122, s. 31.



**32.**—(1) An owner of property designated under this <sup>Application</sup> Part may apply to the council of the municipality in which the property is situate to repeal the by-law or part thereof designating the property.

(2) After consultation with its local advisory committee, <sup>Decision</sup> where one is established, the council shall consider an application under subsection (1) and within ninety days of receipt thereof shall,

(a) refuse the application and cause notice of its decision to be given to the owner and to the Foundation; or

(b) consent to the application and pass a by-law repealing the by-law or part thereof designating the property and shall cause,

(i) a copy of the repealing by-law to be served on the owner and the Foundation,

(ii) reference to the property to be deleted from the Register referred to in subsection 27 (1),

(iii) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality, and

(iv) a copy of the repealing by-law to be registered against the property affected in the proper land registry office.

(3) The applicant and the council may agree to extend the <sup>Extension</sup> time under subsection (2) and, where the council fails to notify the applicant of its decision within such extended time as may be agreed upon, the council shall be deemed to have consented to the application.

(4) Where the council refuses the application under sub- <sup>Application</sup> section (2), the owner may within thirty days after receipt of the notice under subsection (2) apply to the council for a hearing before the Review Board.

(5) The council shall, upon receipt of an application under subsection (4), refer the matter to the Review Board for a <sup>Referral</sup> hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality at least ten days prior to the date of the hearing.

## Hearing

(6) The Review Board shall as soon as is practicable hold a hearing open to the public to review the application, and the council and the owner and such other persons as the Review Board may specify are parties to the hearing.

## Place of hearing

(7) A hearing under subsection (6) shall be held at such place in the municipality as the Review Board may determine.

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(8) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under subsection (6).

## Report

(9) Within thirty days after the conclusion of a hearing under subsection (6), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing.

Failure  
to report

(10) Where the Review Board fails to make a report within the time limited by subsection (9), such failure does not invalidate the procedure.

Decision  
of  
council

(11) After considering a report under subsection (9), the council without a further hearing shall,

- (a) refuse the application and cause notice of its decision to be given to the owner; or
- (b) consent to the application and pass a by-law repealing the by-law or part thereof designating the property and shall cause,
  - (i) a copy of the repealing by-law to be served on the owner and the Foundation,
  - (ii) reference to the property to be deleted from the Register referred to in subsection 27 (1),
  - (iii) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality, and
  - (iv) a copy of the repealing by-law to be registered against the property affected in the proper land registry office,

and its decision is final.

(12) Where the council refuses an application under clause (11) (a), the owner of the property affected by the refusal may not reapply to have the designation revoked for twelve months from the service of the notice required under the said clause (a), except with the consent of the council. 1974, c. 122, s. 32.

**33.**—(1) No owner of property designated under this Part shall alter the property or permit the alteration of the property where the alteration is likely to affect the reason for the designation as set out in subsection 29 (6) or (14), as the case may be, unless he applies to the council and receives consent in writing to make such alteration.

(2) An application under subsection (1) shall be accompanied by a detailed plan and shall set out such information as the council may require.

(3) The council, upon receipt of an application under subsection (1) together with such information as it may require under subsection (2), shall cause a notice of receipt to be served on the applicant.

(4) The council, after consultation with its local advisory committee, where one is established, shall consider an application under subsection (1) and within ninety days after the notice of receipt is served on the applicant under subsection (3) shall,

(a) consent to the application;

(b) consent to the application upon certain terms and conditions; or

(c) refuse the application,

and shall cause notice of its decision to be given to the owner and to the Foundation.

(5) The applicant and the council may agree to extend the time under subsection (4) and, where the council fails to notify the applicant of its decision within ninety days after the notice of receipt is served on the applicant or within such extended time as may be agreed upon, the council shall be deemed to have consented to the application.

(6) Where the council consents to an application upon certain terms and conditions or refuses the application, the

owner may, within thirty days after receipt of the notice under subsection (4), apply to the council for a hearing before the Review Board.

Referral  
to Review  
Board

(7) The council shall, upon receipt of a notice under subsection (6), refer the matter to the Review Board for a hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality, at least ten days prior to the date of such hearing.

Hearing

(8) The Review Board shall as soon as is practicable hold a hearing open to the public to review the application, and the council and the owner and such other persons as the Review Board may specify are parties to the hearing.

Place for  
hearing

(9) A hearing under subsection (8) shall be held at such place in the municipality as the Review Board may determine.

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(10) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under subsection (8).

Report

(11) Within thirty days after the conclusion of a hearing under subsection (8), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing.

Failure  
to report

(12) Where the Review Board fails to make a report within the time limited by subsection (11), the failure does not invalidate the procedure.

Decision  
of  
council

(13) After considering the report under subsection (11), the council without a further hearing shall confirm or revise its decision under subsection (4) with such modifications as the council considers proper and shall cause notice of its decision to be served on the owner and the Foundation and to the other parties to the hearing, and its decision is final. 1974, c. 122, s. 33.

Application  
for  
demolition

**34.**—(1) No owner of property designated under this Part shall demolish or remove any building or structure on such property or permit the demolition or removal of any building or structure on such property unless he applies to the council of the municipality in which the property is situate and receives consent in writing to such demolition or removal.



(2) The council, after consultation with its local advisory committee, where one is established, shall consider an application under subsection (1) and within ninety days of receipt thereof shall,

Decision of  
council

(a) consent to the application; or

(b) refuse the application and prohibit any work to demolish or remove any building or structure on the property for a period of 180 days from the date of its decision,

and shall cause notice of its decision,

(c) to be given to the owner and to the Foundation; and

(d) to be published in a newspaper having general circulation in the municipality,

and its decision is final.

(3) The applicant and the council may agree to extend the time under subsection (2) and, where the council fails to notify the applicant of its decision within ninety days after the notice of receipt is served on the applicant or within such extended time as may be agreed upon, the council shall be deemed to have consented to the application.

Extension  
of time

(4) Notwithstanding subsection (1), where the period of 180 days prohibiting any work to demolish or remove any building or structure on a property under clause (2) (b) has expired and the owner has not agreed to an extension of such period, or where the extension of time agreed upon by the owner and the council under subsection (3) has expired, the owner may proceed to demolish or remove the building or structure on the property subject to the provisions of any other Act or regulation thereunder.

When  
demolition  
may proceed

(5) Where,

By-law  
designating  
property to  
be repealed

(a) the council consents to an application under clause (2) (a), or is deemed to have consented to an application under subsection (3); or

(b) the period of 180 days under clause (2) (b) has expired or where the extension of time agreed upon by the owner and the council under subsection (3) has

expired and the demolition or removal of the building or structure on the property has been completed,

the council shall pass a by-law repealing the by-law or part thereof designating the property and shall cause,

- (c) a copy of the repealing by-law to be served on the owner and on the Foundation;
- (d) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality;
- (e) reference to the property to be deleted from the Register referred to in subsection 27 (1); and
- (f) a copy of the repealing by-law to be registered against the property affected in the proper land registry office. 1974, c. 122, s. 34.

New  
owner  
to give  
notice

**35.** Every person who becomes the owner of property designated under this Part shall give notice to the clerk of the municipality in which the property is situate of the change in ownership within thirty days of his becoming owner of the property. 1974, c. 122, s. 35.

Purchase or  
lease  
by-laws

**36.—(1)** The council of a municipality may pass by-laws providing for acquiring, by purchase, lease or otherwise, any property or part thereof designated under this Part, including any interest therein, for the use or purposes of this Part and for disposing of such property, or any interest therein, by sale, lease or otherwise, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part.

Expro-  
priating  
by-law  
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c. 148

**(2)** Subject to the *Expropriations Act*, the council of every municipality may pass by-laws providing for the expropriation of any property designated under this Part and required for the purposes of this Part and may sell, lease or otherwise dispose of the property, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part.

Delegation

**(3)** The council of a municipality that forms part of a county, a metropolitan, regional or district municipality may delegate its power under this Part to the council of such county, metropolitan, regional or district municipality of which it forms part. 1974, c. 122, s. 36.

**37.**—(1) Notwithstanding the provisions of subsection <sup>Easements</sup> 36 (1), the council of a municipality after consultation with its local advisory committee, where one is established, may pass by-laws providing for the entering into of easements or covenants with owners of real property, or interests therein, for the conservation of buildings of historic or architectural value or interest. 1979, c. 41, s. 2 (1).

(2) Any easement or covenant entered into by a <sup>Idem</sup> council of a municipality may be registered, against the real property affected, in the proper land registry office. 1974, c. 122, s. 37 (1); 1979, c. 41, s. 2 (1, 2).

(3) Where an easement or covenant is registered against <sup>Idem</sup> real property under subsection (2), such easement or covenant shall run with the real property and the council of the municipality may enforce such easement or covenant, whether positive or negative in nature, against the owner or any subsequent owners of the real property, and the council of the municipality may enforce such easement or covenant even where it owns no other land which would be accommodated or benefitted by such easement or covenant. 1974, c. 122, s. 37 (2); 1979, c. 41, s. 2 (1, 3).

(4) Any easement or covenant entered into by the council <sup>Assignment</sup> of a municipality under subsection (2) may be assigned to any person and such easement or covenant shall continue to run with the real property and the assignee may enforce the easement or covenant as if it were the council of the municipality and it owned no other land which would be accommodated or benefitted by such easement or covenant. 1974, c. 122, s. 37 (3); 1979, c. 41, s. 2 (1, 4).

(5) Where there is a conflict between the provisions of an <sup>Conflict</sup> easement or covenant entered into by a council of a municipality under subsection (1) and any provision of section 33 or 34, the provisions of the easement or covenant shall prevail. 1979, c. 41, s. 2 (5).

**38.**—(1) For the purpose of carrying out this Part, any <sup>Inspection</sup> person authorized by the council of a municipality in writing may, upon producing proper identification, inspect at any reasonable time property designated or property proposed to be designated under this Part where a notice of intention to designate has been served and published under subsection 29 (3).

(2) No person shall obstruct a person authorized to make <sup>Obstruction of investigator</sup> an investigation under this section or conceal or destroy anything relevant to the subject-matter of the investigation. 1974, c. 122, s. 38.

Grants and  
loans

**39.**—(1) The council of a municipality may pass by-laws providing for the making of a grant or loan to the owner of a property designated under this Part for the purpose of paying for the whole or any part of the cost of alteration of such designated property on such terms and conditions as the council may prescribe.

Loan is lien  
or charge on  
land

(2) The amount of any loan made under a by-law passed under subsection (1), together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan was made. 1974, c. 122, s. 39.

## PART V

### HERITAGE CONSERVATION DISTRICTS

Heritage  
conservation  
districts

**40.**—(1) The council of a municipality may by by-law define the municipality or one or more areas thereof as an area to be examined for future designation as a heritage conservation district and the council may, after such examination is completed, prepare official plan provisions with respect to such designation.

Con-  
sultation

(2) Where the council of a municipality has established a local advisory committee under section 28, such council shall, before passing a by-law to define the municipality or one or more areas as an area to be examined for future designation as a heritage conservation district under subsection (1), consult with its local advisory committee. 1974, c. 122, s. 40.

Designation  
of heritage  
conservation  
district

**41.**—(1) Subject to subsection (2), where there is in effect in a municipality an official plan that contains provisions relating to the establishment of heritage conservation districts, the council of the municipality may by by-law designate the municipality or any defined area or areas thereof as a heritage conservation district.

Part IV  
not to be  
designated

(2) No property designated by a council of a municipality under Part IV shall be designated as part of a heritage conservation district under this Part.

Approval  
of Board  
required

(3) A by-law passed under subsection (1) does not come into force without the approval of the Board.

Notice

(4) The council of the municipality shall, in such manner and to such persons as the Board may direct, cause notice of its application to be given to the Board for approval of a by-law under subsection (1).



(5) The council of a municipality shall, in addition to any notice required under subsection (4), cause notice to be given to the Foundation of its application to the Board for approval of a by-law under subsection (1). <sup>Notice to Foundation</sup>

(6) The Board shall, before approving a by-law under subsection (1), hold a hearing open to the public for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. <sup>Hearing</sup>

(7) The Board may approve a by-law under subsection (1) as to the whole or any part of the area defined therein and such approval does not become effective until the issue by the Board of its formal order thereof. <sup>Approval by Board</sup>

(8) Unless the council of the municipality applies to the Board for approval of a by-law under subsection (1), within fourteen days from the date that it is passed by the council, such by-law shall be deemed to be repealed on the expiry of the fourteen days. 1974, c. 122, s. 41. <sup>Expiry</sup>

**42.** Where a by-law has been passed under section 41, no person shall in the area defined in the by-law erect, demolish or remove any building or structure, or alter the external portions thereof, without a permit therefor issued by the council of the municipality unless, <sup>Erection, demolition, alteration or removal prohibited</sup>

(a) the by-law has been deemed to be repealed under subsection 41 (8);

(b) the Board has issued an order refusing approval of the by-law; or

(c) in the case of demolition or removal, 180 days have elapsed as provided for in subsection 44 (2). 1974, c. 122, s. 42.

**43.—**(1) An application for a permit referred to in section 42 shall be made to the council of the municipality and shall contain or be accompanied by such information, drawings and other material as may reasonably be required by the council to fully consider the application. <sup>Application</sup>

(2) An application under subsection (1) shall be considered by the council and the council, within ninety days of the receipt of the completed application or such longer period as is mutually agreed by the applicant and the council, shall, <sup>Decision of council</sup>

(a) issue the permit as requested; or

(b) advise the applicant in writing that a permit is refused.

Terms and  
conditions

(3) Such terms and conditions as the council considers desirable may be attached to a permit issued under subsection (2). 1974, c. 122, s. 43.

Erection  
or  
alteration

**44.**—(1) Where an application under section 43 to the council of a municipality for a permit to erect a building or structure or to alter the external portions of any building or structure is refused or the council fails to make a decision thereon within the period provided for in section 43 or the council attaches terms or conditions to a permit, the applicant may, within thirty days of receipt of a permit or advice in writing from the council under subsection 43 (2), appeal to the Board and the Board shall hear the appeal and,

(a) dismiss the same; or

(b) direct that the permit be issued with or without such terms and conditions as the Board by its order may direct.

Demolition  
or removal

(2) Where an application under section 43 to the council of the municipality for a permit to demolish or remove a building or structure is refused or the council fails to make a decision thereon within the period provided for in section 43, the applicant, upon expiration of a period of 180 days from the date of refusal by the council to issue a permit or from the expiration of the period provided for in section 43 may proceed to demolish or remove the building or structure subject to the provisions of any other Act or regulation thereunder. 1974, c. 122, s. 44.

## Application

**45.** The provisions of sections 36, 37, 38 and 39 apply in respect of any building or structure and the land appurtenant thereto that is situate within the area that has been designated by by-law under this Part as a heritage conservation district. 1974, c. 122, s. 45.

## Delegation

**46.** The council of a municipality that forms part of a county, a metropolitan, regional or district municipality may delegate its powers under this Part to the council of such county, metropolitan, regional or district municipality of which it forms part. 1974, c. 122, s. 46.

## PART VI

CONSERVATION OF RESOURCES OF ARCHAEOLOGICAL  
VALUEInterpre-  
tation

**47.** In this Part,

(a) “designated property” means property that is designated by the Minister under this Part;

- (b) "property" means real property, but does not include buildings or structures other than ruins, burial mounds, petroglyphs and earthworks. 1974, c. 122, s. 47.

**48.**—(1) Subject to subsection (2), no person shall carry out archaeological exploration, an archaeological survey or field work without a licence therefor issued by the Minister under this Part. Registration required

(2) A licence is not required for archaeological exploration, an archaeological survey or field work on property that is listed in the regulations. No licence required

(3) The Minister, before granting or renewing a licence, refusing to grant or renew a licence or suspending or revoking a licence, shall consult with the Foundation. Minister to consult with Foundation

(4) A licence is effective only in the geographical area defined therein, expires on the date of expiry set out in the licence and may contain such particular terms and conditions to give effect to the purposes of this Part as the Minister may direct. Expiry

(5) A licence is not transferable.

Licence not transferable

(6) Subject to subsection (8), any person who applies in accordance with this Part and the regulations for a licence to carry out archaeological exploration or field work is entitled to be issued a licence by the Minister. Licence to be issued

(7) Subject to subsection (8), a licensee who makes application in accordance with this Part and the regulations for renewal of his licence is entitled to a renewal of his licence by the Minister. Renewal of licence

(8) Subject to section 49, the Minister may refuse to issue a licence if in his opinion, Refusal to issue licence

(a) the applicant is not competent to conduct archaeological exploration or field work in a responsible manner in accordance with this Part and the regulations;

(b) the past conduct of the applicant affords reasonable grounds for belief that the archaeological exploration or field work will not be carried out in accordance with this Part and the regulations.

(9) Subject to section 49, the Minister may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection (8) if he were an applicant, or where the licensee is in breach of a term or condition of the licence. 1974, c. 122, s. 48. Revocation and refusal to renew

Notice of  
proposal  
to refuse  
or revoke

**49.**—(1) Where the Minister proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice  
requiring  
hearing

(2) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the Review Board if he mails or delivers to the Minister within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of  
Minister  
where no  
hearing

(3) Where an applicant or licensee does not require a hearing by the Review Board in accordance with subsection (2), the Minister may carry out the proposal stated in his notice under subsection (1).

Referral to  
Review  
Board

(4) Where an applicant or licensee requires a hearing by the Review Board in accordance with subsection (2), the Minister shall refer the matter to the Review Board for a hearing and report.

Hearing

(5) Pursuant to a reference by the Minister under this section, the Review Board shall, as soon as is practicable, hold a hearing to determine whether the Minister should refuse to grant or renew a licence or should suspend or revoke a licence, as the case may be, and the Minister, the applicant or licensee and such other persons as the Review Board may specify are parties to the hearing.

Place of  
hearing

(6) A hearing under subsection (5) shall be held at such place in the municipality in which the property is situate as the Review Board may determine and notice of such hearing shall be published in a newspaper having general circulation in the municipality in which the property is situate at least ten days prior to the date of such hearing.

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of  
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(7) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under this section.

Report

(8) The Review Board shall, within thirty days after the conclusion of a hearing under this section, make a report to the Minister setting out its findings of fact, its recommendations and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing.

Failure  
to report

(9) If the Review Board fails to make a report within the time limited by subsection (8), such failure does not invalidate the procedure.



(10) After considering the report under this section, the Minister without a further hearing shall carry out his proposal or refrain from carrying out his proposal or take such action as he considers proper in accordance with this Part and the regulations, and his decision is final. Decision of Minister

(11) Notwithstanding subsection (1), the Minister may cancel a licence at the request in writing of the licensee in the prescribed form surrendering his licence. 1974, c. 122, s. 49. Voluntary cancellation

**50.**—(1) The Minister may extend the time for requiring a hearing under section 49, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension. Extension of time

(2) Where, before expiry of his registration, a licensee has applied for renewal of his registration, his registration shall be deemed to continue, Continuance pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice under section 49 that the Minister proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired, or until the Minister after considering the report of the Review Board carries out the proposal stated in the notice under subsection 49 (1). 1974, c. 122, s. 50.

**51.** Notwithstanding sections 49 and 50, the Minister, by notice to a licensee and without a hearing, may provisionally refuse renewal of, suspend or revoke a licence where in the Minister's opinion it is necessary to do so for the immediate protection and preservation of a property or an object for the purposes of this Part or where the continuation of exploration or field work under the licence is in the Minister's opinion an immediate threat to the public's interest and the Minister so states in such notice, giving his reasons therefor, and thereafter the provisions of section 49 apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 49 (1). 1974, c. 122, s. 51. Minister may refuse to renew, suspend or revoke

**52.**—(1) Where the Minister, after consultation with the Foundation, intends to designate a property to be of archaeological or historical significance, he shall cause notice Proposed designation

of intention to designate to be given by the Foundation in accordance with subsection (2).

Notice of  
intention

(2) Notice of intention to designate under subsection (1) shall be,

- (a) served on the owner of the property and on the clerk of the municipality in which the property is situate; and
- (b) published in a newspaper having general circulation in the municipality in which the property is situate.

Contents  
of notice

(3) Notice of intention to designate under subsection (1) shall contain,

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a statement of the reason for the proposed designation;
- (c) a statement of the period of time that the designation of the property is to remain in effect; and
- (d) a statement that notice of objection to the designation may be served on the Minister within thirty days of the date of the first publication of the notice of intention in a newspaper having general circulation in the municipality in which the property is situate.

Objection

(4) A person who objects to a proposed designation may, within thirty days of the date of the first publication of the notice of intention in a newspaper having general circulation in the municipality in which the property is situate, serve on the Minister a notice of objection setting out the reason for the objection and all relevant facts.

Where no  
notice of  
objection

(5) Where no notice of objection is served within the thirty-day period under subsection (4), the Minister shall,

- (a) make an order designating the property for the period provided for in the notice of intention referred to in subsection (3) and cause a copy of the order together with the reasons for the designation,
  - (i) to be registered against the property affected in the proper land registry office, and

- (ii) to be served on the owner and on the clerk of the municipality in which the property is situate,

and publish a notice of such order in a newspaper having general circulation in the municipality in which the property is situate; or

- (b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (2).

(6) Where a notice of objection has been served under subsection (4), the Minister shall, upon expiration of the thirty-day period under subsection (4), refer the matter to the Review Board for a hearing and report.

Referred  
to Review  
Board

(7) Pursuant to a reference by the Minister under subsection (6), the Review Board, as soon as is practicable, shall hold a hearing open to the public to determine whether the property in question should be designated, and the Minister, the owner, any person who has filed an objection under subsection (4) and such other persons as the Review Board may specify, are parties to the hearing.

Hearing

(8) A hearing under subsection (7) shall be held at such place in the municipality in which the property is situate as the Review Board may determine, and notice of such hearing shall be published in a newspaper having general circulation in the municipality in which the property is situate at least ten days prior to the date of such hearing.

Place of  
hearing

(9) The Review Board may combine two or more related hearings to conduct them in all respects and for all purposes as one hearing.

Review Board  
may combine  
hearings

(10) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under subsection (7).

Application  
of  
R.S.O. 1980,  
c. 484

(11) Within thirty days after the conclusion of a hearing under subsection (7), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to whether or not the property should be designated under this Act and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing.

Report

Failure  
to report

(12) Where the Review Board fails to make a report within the time limited by subsection (11), such failure does not invalidate the procedure.

Decision of  
Minister

(13) After considering the report under subsection (11), the Minister without a further hearing shall,

(a) make an order designating the property for the period provided for in the notice of intention referred to in subsection (3) and cause a copy of the order together with the reasons for the designation,

(i) to be registered against the property affected in the proper land registry office,

(ii) to be served on the owner and on the clerk of the municipality in which the property is situate,

and publish a notice of such order in a newspaper having general circulation in the municipality in which the property is situate; or

(b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (2),

and his decision is final. 1974, c. 122, s. 52.

Application  
of s. 56

**53.** Where a notice of intention to designate a property has been served and published under subsection 52 (2) and has not been withdrawn under clause 52 (5) (b) or 52 (13) (b), the provisions of section 56 apply as if such property were designated property. 1974, c. 122, s. 53.

Revocation  
of order

**54.** The Minister may at any time, after consultation with the Foundation, order the designation of a property designated under this Part to be revoked and where the designation is revoked shall,

(a) cause a copy of the revoking order to be served on the owner and on the clerk of the municipality in which the property is situate;



- (b) cause notice of the revoking order to be published in a newspaper having general circulation in the municipality in which the property is situate;
- (c) cause reference to the property to be deleted from the Register referred to in section 23; and
- (d) cause a copy of the revoking order to be registered against the property affected in the proper land registry office. 1974, c. 122, s. 54.

**55.**—(1) An owner of property designated under this Part <sup>Application</sup> may apply to the Minister to have the designation revoked.

(2) The Minister after consultation with the Foundation <sup>Decision of Minister</sup> shall consider an application under subsection (1) and may consult with the council of the municipality in which the designated property is situate and within ninety days of receipt thereof shall,

- (a) refuse the application and cause notice of his decision to be given to the owner; or
- (b) consent to the application and order the designation of the property to be revoked, and shall cause,
  - (i) a copy of the order to be served on the owner and the clerk of the municipality in which the property is situate,
  - (ii) reference to the property to be deleted from the Register referred to in section 23,
  - (iii) notice of such revocation of the designation of the property to be published in a newspaper having general circulation in the municipality in which the property is situate, and
  - (iv) a copy of the order to be registered against the property affected in the proper land registry office.

(3) The applicant and the Minister may agree to extend <sup>Extension of time</sup> the time under subsection (2) and, where the Minister fails to notify the applicant of his decision within ninety days

of receipt of the application or within such extended time as may be agreed upon, the Minister shall be deemed to have consented to the application.

Application  
for hearing

(4) Where the Minister refuses an application under subsection (2), the owner may, within thirty days after receipt of the notice under subsection (2), apply to the Minister for a hearing before the Review Board.

Referral  
to Review  
Board

(5) The Minister shall, upon receipt of a notice under subsection (4), refer the matter to the Review Board for a hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality in which the designated property is situate at least ten days prior to the date of the hearing.

Hearing

(6) The Review Board shall, as soon as is practicable, hold a hearing open to the public to review the application and the Minister and the owner and such other persons as the Review Board may specify are parties to the hearing.

Place of  
hearing

(7) A hearing under subsection (6) shall be held at such place in the municipality in which the property is situate as the Review Board may determine.

Application  
of  
R.S.O. 1980,  
c. 484  
Report

(8) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under subsection (6).

(9) Within thirty days after the conclusion of a hearing under subsection (6), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing.

Failure  
to report

(10) Where the Review Board fails to make a report within the time limited by subsection (9), such failure does not invalidate the procedure.

Decision of  
Minister

(11) After considering the report under subsection (9), the Minister without a further hearing shall,

(a) refuse the application and cause notice of his decision to be given to the owner; or

(b) consent to the application and order the designation of the property revoked, and cause,

(i) a copy of the order to be served on the owner and the clerk of the municipality in which the property is situate,

- (ii) reference to the property to be deleted from the Register referred to in section 23,
- (iii) notice of the revocation to be published in a newspaper having general circulation in the municipality in which the property is situate, and
- (iv) a copy of the order to be registered against the property affected in the proper land registry office,

and his decision is final. 1974, c. 122, s. 55.

**56.**—(1) No person shall excavate or alter property designated under this Part or remove any object therefrom unless he applies to the Minister and receives a permit therefor. Permit required

(2) An applicant is entitled to a permit or renewal of a permit by the Minister to excavate or alter designated property and remove objects therefrom except where the Minister is of the opinion that such excavation, alteration or the taking or removal of objects would impair or interfere with the protection of the designated property. Issuance of permit

(3) A permit is subject to such terms and conditions to give effect to the purposes of this Part, including terms of rehabilitation and security therefor as are consented to by the applicant, imposed by the Minister or prescribed by the regulations. Terms and conditions of permit

(4) A permit is not transferable. 1974, c. 122, s. 56. Permit not transferable

**57.** Subject to section 58, the Minister may refuse to renew or may suspend or revoke a permit for any reason that would disentitle the permittee to a permit under section 55 if he were an applicant or where the permittee is in breach of a term or condition of the permit. 1974, c. 122, s. 57. Revocation and refusal to renew

**58.**—(1) Where the Minister proposes to refuse to grant or renew a permit or proposes to suspend or revoke a permit, he shall serve notice of his proposal together with written reasons therefor on the applicant or permittee. Notice of proposal of Minister

(2) A notice under subsection (1) shall notify the applicant or permittee that he is entitled to a hearing by the Review Board if he mails or delivers to the Minister, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing. Contents of notice

Minister  
may carry  
out  
proposals

(3) Where the applicant or permittee does not require a hearing by the Review Board in accordance with subsection (2), the Minister may carry out the proposals stated in his notice under subsection (1).

Referral  
to Review  
Board

(4) Where an applicant or permittee requires a hearing by the Review Board in accordance with subsection (2), the Minister shall refer the matter to the Review Board for a hearing and report.

Hearing

(5) Pursuant to a reference by the Minister under this section, the Review Board shall, as soon as is practicable, hold a hearing as to whether the permit to which the hearing relates should be issued or renewed or should be suspended or revoked, as the case may be, and the applicant or permittee and such other persons as the Review Board may specify shall be parties to the hearing.

Place of  
hearing

(6) A hearing under subsection (5) shall be held at such place in the municipality in which the property is situate as the Review Board may determine and notice of such hearing shall be published in a newspaper having general circulation in the municipality in which the property is situate at least ten days prior to the date of such hearing.

Application  
of  
R.S.O. 1980,  
c. 484

(7) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply to a hearing under this section.

Report

(8) Within thirty days after the conclusion of a hearing under subsection (5), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to the issue, renewal, suspension or revocation of the permit to which the hearing relates, as the case may be, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing.

Decision of  
Minister

(9) After considering a report made under this section, the Minister shall without a further hearing confirm or revise his decision under subsection (1) with such modifications as the Minister considers proper and shall give notice of his decision and the reasons therefor to the applicant or permittee and to the other parties to the hearing, and his decision is final. 1974, c. 122, s. 58.

Extension  
of time

**59.**—(1) The Minister may extend the time for requiring a hearing under section 58, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or permittee pursuant to a hearing and that there are reasonable



grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

(2) Where, before expiry of his registration, a permittee has applied for renewal of his registration, his registration shall be deemed to continue, Continuance pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice under section 49 that the Minister proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired, or until the Minister after considering the report of the Review Board carries out the proposal stated in the notice under subsection 49 (1). 1974, c. 122, s. 59.

**60.** Notwithstanding sections 58 and 59, the Minister, by notice to a permittee and without a hearing, may provisionally refuse renewal of, or suspend the permittee's permit where the continuation of operations under the permit is, in the Minister's opinion an immediate threat to the public's interest and the Minister so states in such notice, giving his reasons therefor, and thereafter the provisions of section 58 apply as if the notice given under this section were a notice of a proposal to revoke the permit under subsection 58 (1). 1974, c. 122, s. 60. Minister may refuse to renew, suspend or revoke

**61.** The issue of a licence under section 48 or a permit under section 56 does not authorize the holder of such licence or permit to enter upon any property. 1974, c. 122, s. 61. Licence or permit not authority to enter

**62.**—(1) Where the Minister after consultation with the Foundation is of the opinion that property is of archaeological or historical significance and is likely to be altered, damaged, or destroyed by reason of commercial, industrial, agricultural, residential or other development, the Minister may issue a stop order directed to the person responsible for such commercial, industrial, agricultural, residential or other development prohibiting any work on the property for a period of no longer than 180 days, and within that period the Minister or any person authorized by him in writing may examine the property and remove or salvage objects therefrom. Stop order

(2) Where a stop order is made by the Minister under subsection (1) and no agreement as to payment of compensation has been reached by the Minister and the person affected by the stop order, the person affected by the stop order shall be entitled to compensation for personal or business damages resulting from the stop order, and the provisions of the *Expropriations Act* with respect to the negotiation, payment Compensation R.S.O. 1980, c. 148

and fixing of compensation apply with necessary modifications as if the stop order imposed by this Part were an expropriation of rights. 1974, c. 122, s. 62.

Compensation where property designated

**63.** Where property is designated under section 52 and no agreement as to the payment of compensation has been reached by the Minister with the owner, the owner shall be entitled to compensation for personal or business damages for the period provided for in the order designating the property, and the provisions of the *Expropriations Act* with respect to the negotiation, payment and fixing of compensation apply with necessary modifications as if the designation and the resulting restrictions imposed by this Act were an expropriation of rights. 1974, c. 122, s. 63.

R.S.O. 1980, c. 148

Inspection

**64.**—(1) For the purpose of carrying out this Part, any person authorized by the Minister in writing may, upon producing proper identification, inspect at any reasonable time property designated or property proposed to be designated under this Part where a notice of intention to designate has been served and published under subsection 52 (2).

Obstruction of investigator

(2) No person shall obstruct a person authorized to make an investigation under this section or conceal or destroy anything relevant to the subject-matter of the investigation. 1974, c. 122, s. 64.

Report of field work

**65.**—(1) Within a reasonable time after the close of each season's field work, every licensee shall furnish to the Minister a report containing full details of the work done, including details of any stratification or other chronological evidence encountered, and such other information as the Minister may require.

Report of archaeological sites

(2) When so required by the Minister, a person, organization or corporation shall prepare and file with the Minister particulars of all property of archaeological or historical significance in Ontario, known to such person, organization or corporation. 1974, c. 122, s. 65.

Objects may be held in trust

**66.**—(1) The Minister may direct that any object taken under the authority of a licence or a permit be deposited in such public institution as he may determine to be held in trust for the people of Ontario.

Idem

(2) Any object that is taken by a person who is not a licensee or by a licensee in contravention of his licence or this Part may be seized by a person authorized so to do by the Minister and deposited in such public institution as the Minister may determine to be held in trust for the people of Ontario. 1974, c. 122, s. 66.

## PART VII

## GENERAL

**67.**—(1) Any notice or order required to be given, delivered <sup>Service</sup> or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last known address.

(2) Where service is made by mail, the service shall be <sup>Idem</sup> deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice or order until a later date.

(3) Any notice required to be published in a newspaper <sup>Publication</sup> having general circulation in the municipality in which a property is situate shall be published in that newspaper once for each of three consecutive weeks. 1974, c. 122, s. 67.

**68.**—(1) Where, before the 5th day of March, 1975, a building or structure is designated by by-law under any public or private <sup>Designation under public or private Acts</sup> Act as a building or structure of historic or architectural value or interest, the building or structure shall be deemed to be property designated under Part IV of this Act and the provisions of Part IV shall apply. 1975, c. 87, s. 1.

(2) Where, before the 5th day of March, 1975, land was designated under *The Archaeological and Historic Sites Protection Act* as an archaeological or historic site, as the case may be, the land shall be deemed to be property designated under Part VI of this Act and the provisions of Part VI shall apply. <sup>Land deemed to be property under Part VI R.S.O. 1970, c. 26</sup>

(3) Where there is a conflict between any provision of this <sup>Conflict</sup> Act or the regulations and any other Act or regulation, the provisions of this Act or the regulations shall prevail. 1974, c. 122, s. 68 (2, 3).

**69.**—(1) Subject to subsection (2), every person who, <sup>Offences</sup>

(a) knowingly, furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Corporations (2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Consent of Minister (3) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister.

No offence (4) No person is liable under subsection (1) where the person has altered or permitted the alteration of property designated under this Act, where, after having notified the clerk of the municipality in which the property is situate, the alteration has been carried out for reasons of public health, safety or the preservation of the property.

Recovery of restoration costs

(5) Except where,

(a) in the opinion of the council of a municipality, a property is in an unsafe condition or incapable of repair; or

(b) an alteration of a property has been carried out for reasons of public health, or the preservation of the property,

where a property designated under Part IV is altered without the consent of the council of the municipality in which the property is situate, the council of the municipality may, in addition to any other penalty imposed under this Act, where it is practicable, restore the property as nearly as possible to its previous condition and the council of the municipality may recover the cost of such restoration from the owner of the designated property.

Idem

(6) For the purpose of subsection (5), the council of a municipality may authorize any person in writing to enter on the designated property to carry out restorations. 1974, c. 122, s. 69.

Regulations

**70.** The Lieutenant Governor in Council may make regulations,

(a) governing applications for payment of grants or loans under this Act;



- (b) prescribing forms and providing for their use;
- (c) affixing fees or charges for services rendered under this Act;
- (d) governing applications for a licence or renewal of a licence and prescribing the terms and conditions thereof;
- (e) providing for the apportionment and distribution of moneys appropriated by the Legislature for,
  - (i) the establishment, maintenance, development and promotion of museums and historical institutions and providing for the condition covering the payment thereof,
  - (ii) any person, organization or corporation who, with the consent of the owner of the property, places markers, signs, cairns or other interpretive facilities for the interest and guidance of the public; and
- (f) listing properties for which no licence is required under Part VI for archaeological exploration, an archaeological survey or field work. 1974, c. 122, s. 70. -



## CHAPTER 338

## Ontario Highway Transport Board Act

## 1. In this Act,

Interpre-  
tation

(a) "Board" means the Ontario Highway Transport Board established under this Act;

(b) "Minister" means such Minister as is designated by the Lieutenant Governor in Council;

(c) "public commercial vehicle" means a public commercial vehicle as defined in the *Public Commercial Vehicles Act*; R.S.O. 1980, c. 407

(d) "public vehicle" means a public vehicle as defined in the *Public Vehicles Act*. R.S.O. 1970, c. 316, s. 1. R.S.O. 1980, c. 425

2.—(1) The board known as the Ontario Highway Transport Board is continued and shall consist of three members or as many more as the Lieutenant Governor in Council may from time to time determine. Ontario Highway Transport Board

(2) The members shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and not more than two of them as vice-chairmen. R.S.O. 1970, c. 316, s. 2. Appointment

3. A vacancy in membership of the Board or the absence or inability of a member to act does not impair the powers of the Board or of the remaining members who may exercise all the jurisdiction and powers of the Board. R.S.O. 1970, c. 316, s. 3. Powers of Board on vacancy

4. Vacancies in the membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. R.S.O. 1970, c. 316, s. 4. Vacancies

5. Subject to section 6, two members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board. R.S.O. 1970, c. 316, s. 5. Quorum

One member may be authorized to hear application

**6.**—(1) The chairman may authorize one member of the Board to hear and dispose of any application or reference to the Board, or any rehearing or review under section 17, and that member may exercise all the powers of the Board with respect thereto.

Decision of member

(2) Any decision, order, certificate, report or recommendation of a member of the Board made under subsection (1) shall be deemed to be a decision, order, certificate, report or recommendation of the Board for the purposes of this Act. 1979, c. 43, s. 1.

When vice-chairman may act

**7.**—(1) In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as, and has all the powers of, the chairman, including the power to complete any unfinished matter.

Idem

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. R.S.O. 1970, c. 316, s. 7.

Attendance to duties

**8.** Unless otherwise authorized by statute or the standing orders of the Assembly or the Lieutenant Governor in Council, the members of the Board shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. R.S.O. 1970, c. 316, s. 8.

Staff

**9.** The staff of the Board shall consist of a secretary and such officers and employees as may be considered necessary. R.S.O. 1970, c. 316, s. 9.

Power to require filing of information

**10.** The Board may require any person engaged in the transportation of goods or passengers to produce and file with the Board at any time or periodically such documents and information as it considers necessary. R.S.O. 1970, c. 316, s. 11.

Members of Board not personally liable

**11.**—(1) No member of the Board and no officer, agent or employee of the Board is personally liable for anything done by him in good faith under the authority of this Act or the regulations.

Crown not relieved of liability  
R.S.O. 1980, c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort to which it would otherwise be



subject, and the Crown is liable under that Act for any tort in a like manner as if subsection (1) had not been enacted. 1971, c. 50, s. 62 (3).

(3) No member of the Board or of its staff is required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. R.S.O. 1970, c. 316, s. 12 (2). Protection from being called as witnesses

**12.**—(1) An order, certificate, report or recommendation made after a hearing is effective upon being signed, Signing of orders, etc.

(a) by the majority of the members who heard the matter; or

(b) where the matter was heard by a member sitting alone or by two members, by that member or those members, as the case may be.

(2) Every order, certificate, report or recommendation which subsection (1) does not apply is effective upon being signed by two members of the Board. Idem

(3) Every document other than an order, certificate, report or recommendation issued by the Board shall be signed by a member of the Board. 1979, c. 43, s. 2. Idem

**13.** The *Regulations Act* does not apply to any order, decision, consent, approval or certificate issued by the Board. R.S.O. 1980, c. 446, not to apply  
R.S.O. 1970, c. 316, s. 14.

**14.**—(1) The Board shall sit at such times and places as the chairman may from time to time designate and shall conduct its proceedings in such manner as may seem to it most convenient for the speedy and effectual dispatch of its duties. Sittings

(2) Where sittings of the Board are appointed to be held in a municipality in which a court house is situate, the Board and its members have in all respects the same rights as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. Use of court house

(3) Where the sittings of the Board are appointed to be held in a municipality in which there is a municipal hall but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make Use of town hall

all arrangements necessary and suitable for the purpose.  
R.S.O. 1970, c. 316, s. 15.

Power to  
determine  
law and  
fact

**15.** The Board has as to all matters within its jurisdiction under this Act authority to hear and determine all questions of law or of fact. R.S.O. 1970, c. 316, s. 16.

Power to  
review

**16.** The Board may at any time and from time to time rehear any application and may review, amend or revoke its decisions, orders, directions, certificates or approvals and may within its jurisdiction review, amend or revoke any decision, certificate or approval made before the 17th day of October, 1955, by the Ontario Municipal Board under *The Public Commercial Vehicles Act* and *The Public Vehicles Act*. R.S.O. 1970, c. 316, s. 17.

R.S.O. 1950,  
cc. 304, 322

Enforce-  
ment of  
orders

**17.** A certified copy of an order of the Board under this or any other Act may be filed in the office of the Registrar of the Supreme Court and thereupon it becomes a judgment or order of the Supreme Court enforceable in the same manner as a judgment or order of that court to the like effect. R.S.O. 1970, c. 316, s. 18.

Application  
of  
R.S.O. 1980,  
c. 484

**18.**—(1) Sections 4 to 24 of the *Statutory Powers Procedure Act* apply with respect to any hearing by the Board and the proceedings relating thereto.

Parties to  
rehearing

(2) Where the Board holds a rehearing under section 16, the parties to the proceedings relating to the rehearing are the persons who were parties to the initial hearing and such other persons as the Board may specify. 1971, c. 50, s. 62 (4), *part*.

Members  
making  
decision not  
to have  
taken part  
in prior  
investigation

**19.**—(1) Members of the Board assigned to render a decision or report after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or any party or his representative except upon notice to and opportunity for all parties to participate, but such members may without such notice,

(a) consult with other members of the Board; and

(b) seek legal advice from a legal adviser independent of the parties but in such case the nature of the advice shall be made known to the parties

in order that they may make submissions as to the law.

(2) The findings of fact by the Board pursuant to a hearing shall be based exclusively on the evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Findings  
of fact

R.S.O. 1980,  
c. 484

(3) The oral evidence admitted at a hearing by the Board relating to the suspension or cancellation of an operating licence or the issue or cancellation of a vehicle licence under the *Public Vehicles Act* or the *Public Commercial Vehicles Act* shall be taken down in writing or by any other method authorized by the *Evidence Act*. 1971, c. 50, s. 62 (4), *part*.

Recording  
of evidence

R.S.O. 1980,  
cc. 407, 425,  
145

(4) No member of the Board shall be a party to a decision, order, certificate, report or recommendation made after a hearing unless he was present throughout the hearing and heard the evidence and arguments of the parties and, except with the consent of the parties, no decision, order, certificate, report or recommendation shall be made unless all members so present participate in the making of the decision, order, certificate, report or recommendation.

Members at  
hearing to  
participate  
in decision

(5) Where a majority of the members of the Board hearing a matter cannot agree on a decision, order, certificate, report or recommendation, the chairman shall notify all parties to the hearing of the failure of a majority to agree and, upon the consent of the parties, assign another member of the Board to participate in the making of the decision, order, certificate, report or recommendation upon such terms as the parties may agree.

Where no  
majority  
agreement

(6) Where the consent required under subsection (5) cannot be obtained, the matter shall be reheard under section 16 before a member or members of the Board who did not participate in the initial hearing. 1979, c. 43, s. 3.

Idem

**20.**—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be taxed.

Costs

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed.

Idem

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S.O. 1970, c. 316, s. 19.

Idem

Stated  
case

**21.**—(1) The Board shall, at the request of the Lieutenant Governor in Council, or may, of its own motion or upon the application of any party to proceedings before the Board, state a case in writing for the opinion of the Divisional Court upon any question of law.

Where  
Board  
refuses to  
state case

(2) If, on the application of a party to proceedings before it, the Board refuses to state a case under subsection (1), such party may apply to the Divisional Court for an order directing the Board to state such a case.

Determina-  
tion

(3) The Divisional Court shall hear and determine any case stated to it under this section and remit it to the Board with the opinion of the court thereon. 1971, c. 50, s. 62 (5).

L. G. in C.  
may confirm,  
vary or  
rescind  
orders

**22.** Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of any order or decision of the Board, the Lieutenant Governor in Council may,

(a) confirm, vary or rescind the whole or any part of such order or decision; or

(b) require the Board to hold a new public hearing of the whole or any part of the application to the Board upon which such order or decision of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this section. R.S.O. 1970, c. 316, s. 21.

Appeal on  
questions of  
jurisdiction  
and law

**23.**—(1) An appeal lies from the Board to the Divisional Court from any decision, order or report of the Board upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the decision or order sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal. 1971, c. 50, s. 62 (6).

Notice of  
appeal

(2) Upon such leave being obtained, the Registrar shall set the appeal down for hearing at the next sittings of the court and the party appealing shall, within ten days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before



the Board, and to the Board, notice in writing that the case has been so set down, and the appeal shall be heard and disposed of by the court as speedily as practicable.

(3) On the hearing of an appeal under this section, the court may draw such inferences as are not inconsistent with the facts expressly found by the Board and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

Opinion  
of court

(4) The Board is entitled to be heard by counsel or otherwise upon the argument of any such appeal. R.S.O. 1970, c. 316, s. 22 (2-4).

Board may  
be heard

(5) The court may fix the costs and fees to be taxed, allowed and paid upon appeals under this section. R.S.O. 1970, c. 316, s. 22 (5), *revised*.

Costs

(6) The Board, or any member thereof, is not liable for costs in connection with any appeal or application for leave to appeal under this section. R.S.O. 1970, c. 316, s. 22 (6).

Board not  
liable for  
costs

**24.** Except as provided in sections 16, 22 and 23, every order and decision of the Board is final and binding. R.S.O. 1970, c. 316, s. 23.

Orders  
of Board  
final and  
binding

**25.**—(1) The Lieutenant Governor in Council may make regulations governing the practice and procedure in proceedings before the Board. 1971, c. 50, s. 62 (7).

Practice and  
procedure

(2) The Board may charge and collect such fees as it considers proper for all copies of documents, maps or plans, and all certificates as to the same.

Fees  
for copies,  
certificates,  
etc.

(3) Upon the application of any person and on payment of the prescribed fee, the secretary shall deliver to such person a certified copy of any order, decision, certificate or other document issued by the Board. R.S.O. 1970, c. 316, s. 24 (2, 3).

Certified  
copies of  
documents

**26.** There shall be paid upon every application to the Board or every order thereof such fee as the Board may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to

Fees of  
Board

Ontario in the matter, and such fee shall be paid in the first instance by the applicant and is a debt due by the applicant to Her Majesty and a summary order may be made by the Board for payment thereof, and such summary order may be made an order of the Supreme Court. R.S.O. 1970, c. 316, s. 25.

Payment  
over to  
Ontario

**27.** All fees charged and collected by the Board shall be paid over, accompanied by a detailed statement thereof, to the Treasurer of Ontario at such intervals as he may require. R.S.O. 1970, c. 316, s. 26.

Evidence  
of docu-  
ments

**28.** Every document purporting to be signed by a member or the secretary of the Board is without proof of the signature *prima facie* proof that the document was duly signed, and a copy of such document in the custody of the secretary or on record with the Board purporting to be certified by the secretary is *prima facie* proof of such document without proof of the signature of the secretary. R.S.O. 1970, c. 316, s. 27.

Annual  
report

**29.** The Board shall, after the close of each calendar year, make an annual report upon the affairs of the Board to the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 101.

## CHAPTER 339

## Ontario Housing Corporation Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "Corporation" means the Ontario Housing Corporation;
- (c) "Minister" means the Minister of Housing or such other member of the Executive Council as the Lieutenant Governor in Council may designate.
- R.S.O. 1970, c. 317, s. 1.

2.—(1) The Ontario Housing Corporation is continued as a corporation without share capital, consisting of not fewer than seven and not more than eleven members appointed by the Lieutenant Governor in Council.

Ontario  
Housing  
Corporation

(2) The Corporation shall have a seal which shall be adopted by resolution or by-law.

Seal

(3) The fiscal year of the Corporation commences on the 1st day of January in each year and ends on the 31st day of December next following.

Fiscal  
year

(4) The *Corporations Act* does not apply to the Corporation. R.S.O. 1970, c. 317, s. 2.

Application  
of  
R.S.O. 1980,  
c. 95

3.—(1) The members for the time being of the Corporation form and are its Board of Directors, and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the Board.

Board of  
Directors

(2) The Corporation may pay those of its members who are not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be from time to time fixed by the Lieutenant Governor in Council.

Remunera-  
tion

(3) A majority of the directors for the time being constitutes a quorum at meetings of the Board.

Quorum

## By-laws

(4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. R.S.O. 1970, c. 317, s. 3.

## Management

4. The affairs of the Corporation are under the management and control of the Board for the time being, and the chairman shall preside at all meetings of the Board, or, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman. R.S.O. 1970, c. 317, s. 4.

## Staff

R.S.O. 1980,  
c. 418

5. Such officers, clerks and servants may be appointed under the *Public Service Act* as are considered necessary from time to time for the proper conduct of the business of the Corporation. R.S.O. 1970, c. 317, s. 5.

## Powers of Corporation

R.S.O. 1980,  
c. 209

6.—(1) The Corporation, with the approval of the Lieutenant Governor in Council, may make any loan, grant, guarantee or advance that may be made by the Lieutenant Governor in Council or the Minister under sections 2 and 4 of the *Housing Development Act*.

## Power of Corporation to enter into agreements

(2) The Corporation, with the approval of the Lieutenant Governor in Council, may enter into any agreement that Her Majesty in right of Ontario or the Minister is authorized to enter into under the *Housing Development Act*.

## Rights and obligations of Minister under agreements to be rights and obligations of Corporation

(3) All rights of the Minister or of Her Majesty in right of Ontario under any agreement heretofore or hereafter entered into by the Minister under the *Housing Development Act* are hereby vested in the Corporation, and all obligations of the Minister or of Her Majesty in right of Ontario under any such agreement hereby become obligations of the Corporation.

## Power to acquire property

(4) The Corporation may acquire and hold real property and dispose of such property from time to time.

## Title to real property vested in Corporation

(5) All right, title and interest of Her Majesty in right of Ontario or of the Minister in any real property acquired under the *Housing Development Act* that were vested in Her Majesty or the Minister on the 11th day of August, 1964 are vested in the Corporation. R.S.O. 1970, c. 317, s. 6.

## Corporation to be management corporation

7. The Corporation, in addition to its other powers, shall be deemed to be a corporation constituted under subsection 7 (2) of the *Housing Development Act*. R.S.O. 1970, c. 317, s. 7.



8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may consider requisite for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways,

(a) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Board may determine; and

(b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Board may determine; and

(c) by charge or mortgage of all or any of the real property of the Corporation.

(2) The purposes of the Corporation, without limiting the generality thereof, include,

(a) the carrying out of the powers of the Corporation mentioned in sections 6 and 7;

(b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation; and

(c) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

(4) A recital or declaration in any resolution or minute of the Board, authorizing the issue and sale of debentures, bills or notes of the Corporation, to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized, is conclusive evidence to that effect.

Sealing,  
signing,  
etc.

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation.

Mechanical  
reproduction  
of seal and  
signature  
authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note, and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office.

Securities  
of Cor-  
poration  
redeemable  
in advance

(7) Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Board may determine at the time of the issue thereof.

Lost  
debentures

(8) Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the Board may provide for its replacement on such terms as to evidence and as to indemnity as the Board may require. R.S.O. 1970, c. 317, s. 8.

Guarantee  
of payment  
by Ontario

9.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills, notes, charges or mortgages issued or made by or of any temporary loan made to the Corporation under the authority of this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guarantee  
debentures,  
etc., to be  
indefeasible

(4) Any debenture, bill, note, charge or mortgage issued or made by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns, according to its terms, and the validity of any debenture, bill, note, charge, mortgage or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 317, s. 9.

**10.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

Sale of  
Corporation's  
securities  
to Province  
and provin-  
cial advances  
to Cor-  
poration  
authorized

(a) to purchase any debentures, bills or notes of the Corporation; and

(b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 317, s. 10.

Idem

**11.** Notwithstanding anything in any other Act, debentures issued by the Corporation and guaranteed by the Province of Ontario are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1970, c. 317, s. 11.

Trustees,  
etc.,  
investments  
in deben-  
tures

**12.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Corporation and to the Minister. R.S.O. 1970, c. 317, s. 12.

Audit

**13.** The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 317, s. 13.

Annual  
report





## CHAPTER 340

## Ontario Human Rights Code

**W**HEREAS recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations; Preamble

AND WHEREAS it is public policy in Ontario that every person is free and equal in dignity and rights without regard to race, creed, colour, sex, marital status, nationality, ancestry or place or origin;

AND WHEREAS these principles have been confirmed in Ontario by a number of enactments of the Legislature;

AND WHEREAS it is desirable to enact a measure to codify and extend such enactments and to simplify their administration; R.S.O. 1970, c. 318, Preamble; 1972, c. 119, s. 1.

*Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:*

## PART I

**1.**—(1) No person shall publish or display or cause to be published or displayed or permit to be published or displayed any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or any class of persons for any purpose because of the race, creed, colour, sex, marital status, nationality, ancestry or place of origin of such person or class of persons. R.S.O. 1970, c. 318, s. 1 (1); 1972, c. 119, s. 2. Discrimination prohibited in notices, signs, etc.

(2) Nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject. R.S.O. 1970, c. 318, s. 1 (2). Exception as to matters of opinion

**2.**—(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall Discrimination prohibited in places to which public admitted

- (a) deny to any person or class of persons the accommodation, services or facilities available in any place to which the public is customarily admitted; or
- (b) discriminate against any person or class of persons with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted,

because of the race, creed, colour, sex, marital status, nationality, ancestry or place of origin of such person or class of persons or of any other person or class of persons. R.S.O. 1970, c. 318, s. 2; 1972, c. 119, s. 3 (1).

**Exception**

(2) Subsection (1) does not apply to prevent the barring of any person because of the sex of such person from any accommodation, services or facilities upon the ground of public decency. 1972, c. 119, s. 3 (2).

**Discrimination prohibited re occupancy of commercial units or housing accommodation**

**3.—**(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall,

- (a) deny to any person or class of persons occupancy of any commercial unit or any housing accommodation; or
- (b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any commercial unit or any housing accommodation,

because of race, creed, colour, sex, nationality, ancestry or place of origin of such person or class of persons or of any other person or class of persons. 1972, c. 119, s. 4, *part*.

**Exception**

(2) The prohibition in subsection (1) in respect of sex does not apply to housing accommodation in a building where the occupancy of all the housing accommodation other than that of the owner or his family is restricted to individuals who are of the same sex. 1974, c. 73, s. 1.

**Employers not to discriminate in employment practices**

**4.—**(1) No person shall,

- (a) refuse to refer or to recruit any person for employment;
- (b) dismiss or refuse to employ or to continue to employ any person;
- (c) refuse to train, promote or transfer an employee;

- (d) subject an employee to probation or apprenticeship or enlarge a period of probation or apprenticeship;
- (e) establish or maintain any employment classification or category that by its description or operation excludes any person from employment or continued employment;
- (f) maintain separate lines of progression for advancement in employment or separate seniority lists where the maintenance will adversely affect any employee; or
- (g) discriminate against any employee with regard to any term or condition of employment,

because of race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin of such person or employee.

(2) No employer shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast any words, symbol or other representation that indicate directly or indirectly that race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin is or may be a limitation, specification or preference for a position or employment. <sup>Discriminatory advertising</sup>

(3) No person shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast any advertisement for a position or employment for or on behalf of an employer, <sup>Idem</sup>

(a) that contains any words, symbol or other representation; or

(b) that is under a classification or heading,

indicating directly or indirectly that race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin is or may be a limitation, specification or preference for the position or employment.

(4) No person shall use or circulate any form of application for employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to race, creed, colour, nationality, ancestry or place of origin of any person or that requires an applicant for employment to furnish any information concerning race, creed, colour, nationality, ancestry or place of origin. <sup>Application for employment</sup>

**Employment  
agencies**

(5) No employment agency shall discriminate against any person because of race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant or applicants to an employer or anyone acting on his behalf. 1972, c. 119, s. 5, *part*.

**Exception**

(6) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on age, sex or marital status do not apply where age, sex or marital status is a *bona fide* occupational qualification and requirement for the position or employment. 1974, c. 73, s. 2.

**Exception**

(7) The provisions of this section relating to limitation or preference in employment because of race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin do not apply to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit, or to any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit where in any such case race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin is a *bona fide* occupational qualification and requirement.

**Domestic**

(8) This section does not apply to a domestic employed or to be employed in a single family residence. 1972, c. 119, s. 5, *part*.

**Exception**

(9) Clause (1) (g) does not apply to any *bona fide* superannuation or pension fund or plan or any *bona fide* insurance plan that provides life, income, disability, sickness, medical or hospital payments or benefits of a monetary kind to which an employee, his survivors or dependants are or may be entitled that differentiates or makes a distinction, exclusion or preference between employees or any class or classes of employees because of age, sex or marital status. 1974, c. 73, s. 3.

**Membership  
in trade  
union**

5.—(1) No trade union shall exclude from membership or expel or suspend any person or member or discriminate against any person or member because of race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin.

**Membership  
in self-  
governing  
profession**

(2) No self-governing profession shall exclude from membership or expel or suspend any person or member or discriminate against any person or member because of race,



creed, colour, age, sex, marital status, ancestry or place of origin. 1972, c. 119, s. 6.

**6.** No person shall,

- (a) refuse to employ or to continue to employ any person;
- (b) threaten to dismiss or threaten to penalize in any other way any person in regard to his employment or any term or condition thereof;
- (c) discriminate against any person in regard to his employment or any term or condition thereof; or
- (d) intimidate or coerce or impose any pecuniary or other penalty upon any person,

Discrimination, etc., prohibited for taking part in proceeding under Act

on the ground that such person,

- (e) has made or may make a complaint under this Act;
- (f) has made or may make a disclosure concerning the matter complained of;
- (g) has testified or may testify in a proceeding under this Act; or
- (h) has participated or may participate in any other way in a proceeding under this Act. R.S.O. 1970, c. 318, s. 5.

**7.** Subject to section 1 of the *Public Officers Act*, the prohibitions contained in this Part apply to and bind the Crown in right of Ontario and every agency thereof. R.S.O. 1970, c. 318, s. 6.

Prohibitions apply to Crown R.S.O. 1980, c. 415

**8.** Notwithstanding the provisions of this Part, the Commission may, upon conditions or limitations and subject to revocation or suspension, approve in writing any special plan or program by the Crown or any agency thereof or any person to increase the employment of members of a group or class of persons because of the race, creed, colour, age, sex, marital status, nationality or place of origin of the members of the group or class of persons. 1972, c. 119, s. 7.

Special employment programs

## PART II

**9.**—(1) The Ontario Human Rights Commission is continued.

Commission continued

- Composition (2) The Commission shall be composed of three or more members as may be fixed from time to time by the Lieutenant Governor in Council.
- Members (3) The members of the Commission shall be appointed by the Lieutenant Governor in Council.
- Chairman (4) The Lieutenant Governor in Council may designate one of the members as chairman.
- Vacancies (5) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission.
- Remuneration (6) The Lieutenant Governor in Council may fix the remuneration of the members of the Commission. R.S.O. 1970, c. 318, s. 7.
- Responsibility **10.** The Commission is responsible to the Minister for the administration of this Act. R.S.O. 1970, c. 318, s. 8.
- Duties of Commission **11.** The Commission shall administer this Act and, without limiting the generality of the foregoing, the Commission shall,
- (a) forward the principle that every person is free and equal in dignity and rights without regard to race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin;
  - (b) promote an understanding and acceptance of and compliance with this Act;
  - (c) develop and conduct research and educational programs designed to eliminate discriminatory practices related to race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin;
  - (d) investigate complaints in contravention of and enforce this Act. 1972, c. 119, s. 9, *part*.
- Staff **12.** A secretary and such other officers, clerks and servants of the Commission as are considered appropriate may be appointed under the *Public Service Act*. 1972, c. 119, s. 9, *part*.
- R.S.O. 1980, c. 418
- Cost **13.** The cost of the administration of this Act is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 318, s. 11.

**14.** The Lieutenant Governor in Council may make regulations adding to or extending the functions of the Commission and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 318, s. 12. Regulations

### PART III

**15.**—(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission. Complaints

(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto. 1971, c. 50, s. 63, *part*. Consent of  
offended  
person

(3) Where the Commission has reason for believing that any person has contravened a provision of sections 1 to 5 in respect of a person or group of persons, the Commission may initiate a complaint. 1972, c. 119, s. 10. Complaints  
initiated by  
Commission

**16.**—(1) Where a complaint has been filed with or initiated by the Commission, the Commission or an officer thereof shall inquire into the complaint and endeavour to effect a settlement of the matter complained of. Inquiry and  
settlement

(2) In carrying out an inquiry under subsection (1), the Commission or an officer of the Commission may, Powers of  
Commission  
and officers  
of the  
Commission

- (a) subject to subsection (3), enter in or upon the lands or premises of a person at any reasonable time without a warrant for the purpose of investigating the complaint;
- (b) require the production for inspection and examination of employment applications, payrolls, records, documents, writings and papers that are or may be relevant to the investigation of the complaint;
- (c) upon giving a receipt therefor, remove any employment applications, payrolls, records, documents, writings and papers mentioned in clause (b) for the purpose of making copies or extracts of such applications, payrolls, records, documents, writings and papers, but such copying shall be carried on with reasonable dispatch and the applications, payrolls, records, documents, writings and papers shall be

promptly thereafter returned and to the premises from which they were removed;

- (d) make any inquiries of any person separate or apart from another person that are or may be relevant to the complaint.

Access to dwelling

(3) An officer of the Commission shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of an order issued pursuant to subsection (4).

Order of justice of the peace

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by an officer of the Commission, that there is reasonable ground for believing that it is necessary to enter any premises for purposes relevant to an inquiry under this Act, the justice of the peace may issue an order authorizing an officer of the Commission to enter and view such premises for such purposes, but every such entry and viewing shall be made between sunrise and sunset unless the justice of the peace by the order authorizes the officer to make such entry and viewing at night.

Obstruction

(5) No person shall hinder, obstruct, molest or interfere with the Commission or an officer of the Commission in the exercise of a power or the performance of a duty under this Act or withhold from it or him any employment applications, payrolls, records, documents, writings or papers that are or may be relevant to the investigation of a complaint. 1974, c. 73, s. 5.

Board of inquiry

**17.**—(1) Where it appears to the Commission that a complaint will not be settled, the Commission shall make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion, appoint a board of inquiry consisting of one or more persons to hear and decide the complaint.

Parties to be notified of membership of board

(2) Forthwith after the appointment of a board of inquiry, the Minister shall communicate the names of the members of the board to,

(a) the Commission; and

(b) the parties referred to in clauses 18 (1) (b), (c) and (d),

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.



(3) The Lieutenant Governor in Council may determine the remuneration of the chairman and the members of a board of inquiry appointed under this section. 1971, c. 50, s. 63, *part*. Remuneration of members of board

**18.**—(1) The parties to a proceeding before a board of inquiry with respect to any complaint are, Parties to proceeding

- (a) the Commission, which shall have the carriage of the complaint;
- (b) the person named in the complaint as the complainant;
- (c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;
- (d) any person named in the complaint as alleged to have contravened this Act; and
- (e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

(2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission. Copy of complaint annexed to notice

(3) A member of the board hearing a complaint shall not have taken part in any investigation or consideration of the complaint prior to the hearing and shall not communicate directly or indirectly in relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Members at hearing not to have taken part in investigation, etc.

(4) The oral evidence taken before a board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact

Jurisdiction  
of board

(6) Subject to appeal under section 20, the board of inquiry has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision. 1971, c. 50, s. 63, *part*.

Powers  
of board

**19.** The board, after hearing a complaint,

(a) shall decide whether or not any party has contravened this Act; and

(b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person or to make compensation therefor. 1971, c. 50, s. 63, *part*.

Appeal from  
decision of  
board

**20.**—(1) Any party to a hearing before a board may appeal from the decision or order of the board to the Divisional Court in accordance with the rules of court.

Record to be  
filed in court

(2) Where notice of an appeal is served under this section, the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the board if it is not part of the record of the board, shall constitute the record in the appeal.

Minister  
entitled  
to be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers  
of court

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board. 1971, c. 50, s. 63, *part*.

#### PART IV

Offence

**21.** Every person who contravenes any of the provisions of this Act or any order made under this Act is guilty of an offence and on conviction is liable,

(a) if an individual, to a fine of not more than \$1,000; or

(b) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than \$5,000. R.S.O. 1970, c. 318, s. 15; 1972, c. 119, s. 12.

**22.** No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister. R.S.O. 1970, c. 318, s. 16. Consent to prosecution

**23.** A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the trade union or employers' organization shall be deemed to be an act or thing done or omitted by the trade union or employers' organization. R.S.O. 1970, c. 318, s. 17. Style of prosecutions

**24.** Compliance with any provision for the protection or welfare of females contained in the *Occupational Health and Safety Act*, the *Employment Standards Act*, or the *Mining Act* shall not be deemed to be a contravention of this Act. 1972, c. 119, s. 13. Act subject to R.S.O. 1980, cc. 321, 137, 268

**25.**—(1) Where a person has been convicted of a contravention of this Act, the Minister may apply by way of originating notice to a judge of the Supreme Court for an order enjoining such person from continuing such contravention. Injunction proceedings

(2) The judge in his discretion may make such order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court. R.S.O. 1970, c. 318, s. 18. Idem

## PART V

**26.** In this Act,

Interpretation

(a) "age" means any age of forty years or more and less than sixty-five years;

(b) "commercial unit" means any building or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or

occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building or other structure or in a part thereof;

- (c) "Commission" means the Ontario Human Rights Commission;
- (d) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (e) "employment agency" includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;
- (f) "housing accommodation" means any place of dwelling except a place of dwelling being part of a building in which the owner or his family reside and the occupant or occupants of the place of dwelling are required to share a bathroom or kitchen facility with the owner or his family;
- (g) "Minister" means the Minister of Labour or such other member of the Executive Council to whom this Act is assigned by the Lieutenant Governor in Council;
- (h) "pay" means remuneration in any form;
- (i) "person" in addition to the extended meaning given it by the *Interpretation Act*, includes an employment agency, an employers' organization and a trade union;
- (j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions. R.S.O. 1970, c. 318, s. 19; 1972, c. 119, s. 14.



## CHAPTER 341

### Ontario Institute for Studies in Education Act

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means The Board of Governors of The Ontario Institute for Studies in Education;
- (b) "Institute" means The Ontario Institute for Studies in Education;
- (c) "Minister" means the Minister of Education. R.S.O. 1970, c. 319, s. 1.

**2.** The college known as "The Ontario Institute for Studies in Education" is continued and the affairs of the Institute shall be under the management and control of the Board. R.S.O. 1970, c. 319, s. 2.

Institute  
continued

**3.** The objects of the Institute are,

Objects

- (a) to study matters and problems relating to or affecting education, and to disseminate the results of and assist in the implementation of the findings of educational studies;
- (b) to establish and conduct courses leading to certificates of standing and graduate degrees in education. R.S.O. 1970, c. 319, s. 3.

**4.—(1)** The board of governors, which is a body corporate under the name "The Board of Governors of The Ontario Institute for Studies in Education", is continued. R.S.O. 1970, c. 319, s. 4 (1).

Board  
continued

**(2)** The Board shall be composed of,

Composition

- (a) the Director of the Institute; and
- (b) the following members appointed by the Lieutenant Governor in Council upon the recommendation of the Minister,
  - (i) representatives of the teacher-training institutions of Ontario,

- (ii) representatives of the University of Toronto, nominated by its President,
- (iii) representatives of the provincially-assisted universities of Ontario, nominated by the Committee of Presidents of Provincially Assisted Universities of Ontario,
- (iv) representatives of the Ministry of Education,
- (v) representatives of the Ontario Teachers' Federation, nominated by its Board of Governors,
- (vi) representatives of the Ontario School Trustees' Council, nominated by its Council,
- (vii) representatives of provincial associations of directors of education, school superintendents and inspectors, nominated by the associations,
- (viii) persons who are residents of Ontario,
- (ix) members of the administrative and instructional staff of the Institute, in addition to the Director. R.S.O. 1970, c. 319, s. 4 (2); 1972, c. 1, s. 1.

**Regulations**

(3) The Lieutenant Governor in Council may make regulations,

- (a) fixing the number of members of the Board to be appointed under clause (2) (b) and prescribing their terms of office;
- (b) prescribing the conditions of service of members of the Board, including rules for eligibility for reappointment, conditions under which membership is vacated and procedures for filling vacancies on the Board.

**Expenses of members**

(4) The members of the Board may be paid such amounts for travelling and other expenses incurred in carrying out their duties as the Board, subject to the approval of the Minister, may determine from time to time. R.S.O. 1970, c. 319, s. 4 (3, 4).

**Powers of Board****5. The Board may,**

- (a) make such by-laws, rules and regulations as are considered expedient for the administration of its affairs, including the fixing of a quorum of the Board, and may prescribe tuition fees for courses offered by the

Institute and the powers and duties of the academic council;

- (b) appoint, promote, transfer or remove such members of the administrative staff, instructional staff and maintenance staff as are necessary for the proper conduct of the affairs of the Institute, and fix their salaries or remuneration and increments and define their duties, qualifications and tenure of office or employment;
- (c) appoint a Director, who in the first instance shall be a person recommended by the Minister, and other officers and prescribe their powers and duties and fix their salaries or remuneration and tenure of office or employment;
- (d) appoint by resolution a member or members of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Board thereto;
- (e) appoint committees from the membership of the Board and confer upon any of such committees authority to act for the Board with respect to any matter or classes of matters;
- (f) with the approval of the Minister,
  - (i) provide for the retirement and superannuation of persons mentioned in clauses (b) and (c),
  - (ii) provide for payments by way of gratuities, retirement allowances, accumulative sick leave allowances, superannuation allowances, pensions, annuities, life insurance or health insurance, or any combination thereof, payable to any representative or for the benefit of the persons mentioned in clauses (b) and (c), or any class or classes thereof, out of a fund or funds comprising contributions made by such persons, or any class or classes thereof, or by the Board, or both, or otherwise,
  - (iii) expend such sums as may be required for the purposes of funds that are established for the payment of gratuities, retirement allowances, pensions, life insurance or health insurance, for the benefit of the persons mentioned in sub-clause (ii),

- (iv) make arrangements for the use by the Institute of any publicly-supported educational institution for demonstration or experimental purposes or for the services of one or more teachers in such educational institution in the conduct of any demonstration or experiment or other research study,
- (v) enter into agreements with any association or organization having objects similar to those of the Institute for the acquisition of the assets of the association or organization or providing for the joint operation of research programs, and
- (vi) enter into agreements of affiliation with one or more universities relating to the establishment and conduct of programs leading to degrees in education. R.S.O. 1970, c. 319, s. 5.

Chairman,  
vice-  
chairman

**6.**—(1) The Board shall elect a chairman and vice-chairman from among its members for a period of one year, but the chairman and vice-chairman shall continue to hold office until their successors are elected.

Presiding  
officer

(2) The chairman shall preside at all meetings of the Board and, in his absence, the vice-chairman shall preside, and, in the absence of both the chairman and vice-chairman, the members present at a meeting shall elect one of themselves to preside. R.S.O. 1970, c. 319, s. 6.

Academic  
council

**7.** The Board shall establish an academic council composed of any class of instructional staff and officers of the Institute with such powers and duties as may be prescribed by by-law of the Board. R.S.O. 1970, c. 319, s. 7.

Fiscal  
year

**8.** The fiscal year of the Board shall commence on the 1st day of May of each year and end on the 30th day of April of the following year. 1972, c. 55, s. 1, *revised*.

Cost

**9.** The cost of the establishment, maintenance and conduct of the Institute shall be payable to the Board out of the moneys appropriated therefor by the Legislature and out of revenues derived from tuition fees, grants from individuals and organizations and from other sources. R.S.O. 1970, c. 319, s. 9.

Audit

**10.** The accounts and financial transactions of the Board shall be audited annually by an auditor or auditors appointed by the Board. R.S.O. 1970, c. 319, s. 10.



**11.** The Board shall make a report annually to the Minister upon the affairs of the Institute, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 319, s. 11.

**12.**—(1) The real and personal property of the Institute is vested in the Board, and all income of the Institute, including all moneys referred to in section 9, is the property of the Board.

(2) The real and personal property, business and income of the Institute and the Board and the premises leased to and occupied by the Institute or the Board are not subject to taxation for provincial or municipal or school purposes. R.S.O. 1970, c. 319, s. 12.

**13.** The *Teachers' Superannuation Act* applies to the instructional staff of the Institute in the same manner as if the Institute were specified by name in subclause 1 (1) (d) (vi) of that Act. R.S.O. 1970, c. 319, s. 13.



## CHAPTER 342

## Ontario Land Corporation Act

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means the Ontario Land Corporation;

(c) "Minister" means the Minister of Housing or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(d) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics. 1974, c. 134, s. 1; 1978, c. 62, s. 16 (3); O. Reg. 443/78.

2. Except as herein otherwise provided, the *Corporations Act*, the *Loan and Trust Corporations Act* and the *Mortgage Brokers Act* do not apply to the Corporation. 1974, c. 134, s. 2.

Application of  
R.S.O. 1980,  
cc. 95, 249,  
295

## CORPORATION

3. The corporation without share capital known as the "Ontario Land Corporation" is continued. 1974, c. 134, s. 3, *revised*.

Corporation  
continued

## BOARD OF DIRECTORS

4.—(1) There shall be a Board of Directors of the Corporation consisting of not fewer than six and not more than twelve members who shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding three years.

Board of  
Directors

(2) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board.

Chairman

**Reappointment**

(3) Each of the directors is eligible for reappointment upon the expiration of his term of office.

**Remuneration**

(4) The Corporation may pay those of its directors who are not officers in the public service of Ontario such remuneration and expenses as may from time to time be fixed by the Lieutenant Governor in Council and such remuneration and expenses shall be part of the administration expense of the Corporation.

**Seat in Assembly not vacated**  
R.S.O. 1980,  
c. 235

(5) Notwithstanding anything in the *Legislative Assembly Act*, a member of the Assembly who is appointed a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

**Removal from office**

(6) A member of the Board may be removed by the Lieutenant Governor in Council from office before the expiration of his term, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of his term. 1974, c. 134, s. 4.

**CONFLICT****Disclosure by director of interest in contracts**

R.S.O. 1980,  
c. 106

**5.**—(1) Every director of the Corporation who has, directly or indirectly, any interest in any contract or transaction to which the Corporation or any corporation that is a Crown agency within the meaning of the *Crown Agency Act* is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the Corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the Corporation or any corporation that is a Crown agency within the meaning of the *Crown Agency Act*, the cost of the property to the purchaser and the cost thereof to the seller if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

**Interest to be material**

(2) Subsection (1) does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.



(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the Corporation's business, would not require approval by the directors, at the first meeting of the directors held after the director becomes aware of it.

When  
declaration  
of interest  
to be made

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the Corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the Corporation for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the Corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

Effect of  
declaration

(5) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of, or has a material interest in the person that is a party to a contract or proposed contract with the Corporation is a sufficient declaration of interest in relation to any contracts so made. 1974, c. 134, s. 5.

General  
notice

#### OATH OF OFFICE AND SECRECY

6. Before entering upon his duties, every director, officer or employee of the Corporation shall take, and every agent and adviser whose services are engaged by the Corporation may be required by the Corporation to take, before a commissioner of oaths, the following oath or affirmation:

Oath of  
office and  
secrecy

I.....  
do solemnly swear (or affirm) that I will faithfully, honestly and to the best of my judgment, skill and knowledge, execute and perform the duties required of me by the *Ontario Land Corporation Act*, and all rules, directions and instructions thereunder as a director (officer, employee or agent, as the case may be) of the Ontario Land Corporation and that properly relate to my duties as a director (officer, employee or agent, as the case may be) of the Corporation.

I further solemnly swear (or affirm) that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the business of the Corporation, nor will I without due authority, allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

1974, c. 134, s. 6; 1978, c. 94, s. 1.

Chairman  
to preside

**7.**—(1) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman.

Quorum

(2) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board.

By-laws

(3) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. 1974, c. 134, s. 7.

By-laws  
and  
resolutions

**8.** Any by-law or resolution consented to by the signatures of all of the directors is as valid and effective as if it had been passed at a meeting of the Board held for that purpose. 1974, c. 134, s. 8.

Management

**9.** The Board shall manage or supervise the management of the business and affairs of the Corporation, provided that, in accordance with the policy of the Government of Ontario relating to the acquisition, use and development of land, the Board shall comply with any directions from time to time given to it in writing by the Lieutenant Governor in Council or the Minister with respect to the exercise of its powers. 1974, c. 134, s. 9.

Matters  
not to be  
asserted by  
Corporation

**10.** The Corporation may not assert against a person dealing with the Corporation or with any person who has acquired rights from the Corporation that,

- (a) the provisions of this Act have not been complied with;
- (b) a direction referred to in section 9 has not been complied with;
- (c) a person held out by the Corporation as a director, an officer or an agent of the Corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are customary in the business of the Corporation or usual for such director, officer or agent; or

- (d) a document issued by any director, officer or agent of the Corporation with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have by virtue of his position with or relationship to the Corporation knowledge to the contrary. 1974, c. 134, s. 10.

**11.** Each director and each officer of the Corporation and his heirs, executors and administrators shall be indemnified and saved harmless by the Corporation from and against all costs, charges, and expenses that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or other thing, made, done or permitted by him in or about the execution of the duties of his office and any payments made by the Corporation with respect to such costs, charges and expenses, shall be part of the administration expense of the Corporation. 1974, c. 134, s. 11.

Indemnification of officers and directors

**12.—**(1) The Board shall elect from amongst their number an executive committee consisting of not fewer than three directors, one of whom shall be the chairman of the Board, and may delegate to the executive committee any powers of the Board subject to any restrictions which may be imposed by the Board.

Executive committee

(2) A majority of the number of members of the executive committee, or such greater number as the Board by by-law prescribes, constitutes a quorum. 1974, c. 134, s. 12.

Quorum of executive committee

#### OBJECTS AND POWERS OF THE CORPORATION

**13.—**(1) The objects of the Corporation are to assist in the promotion of community and industrial development of land in Ontario by the acquisition of land, development of land and the disposal of land to persons in the private and government sectors for residential, community, industrial, governmental and commercial uses and, without limiting the generality thereof, in the carrying out of those objects the Corporation has the power to,

Objects and powers of the Corporation

- (a) alone or in conjunction with any person or governmental authority, acquire, develop, redevelop, improve, alter, maintain, lease, license, sell, exchange, mortgage or otherwise deal with, as the Corporation considers advisable, any land in Ontario or any interest therein, including all or any buildings or structures that are then or may thereafter be

erected, altered, or improved thereon, with power to enter into any agreement relating thereto;

- (b) lend and invest money on security of real estate and to sell, mortgage, or otherwise dispose of mortgages;
- (c) subscribe for, purchase, invest in, sell, assign or otherwise deal in shares, stocks, bonds, debentures, notes and other securities of any government or municipal corporation, or of any corporation whose objects include the buying and selling of land; and
- (d) do anything that, in the opinion of the Board, can be done advantageously by the Corporation in connection with or ancillary to the carrying out of the objects of the Corporation set out in clauses (a), (b), and (c). 1978, c. 94, s. 2 (1).

Limitation  
on  
investments  
R.S.O. 1980,  
c. 106

(2) The Corporation shall not invest in any of the securities mentioned in clause (1) (d) of a corporation that is a Crown agency within the meaning of the *Crown Agency Act* unless the board of directors of such corporation includes at least one person who is also a member of the Board. 1974, c. 134, s. 13 (2).

Transfer of  
assets to  
Corporation

(3) Such right, title and interest in property, both real and personal, that is presently or is hereafter vested in or owned by the Province of Ontario or any board, commission or agency thereof, as deemed necessary or advisable by the Lieutenant Governor in Council to carry out the objects of the Corporation, from time to time, shall be transferred to and vested in the Corporation, together with all obligations, liabilities and responsibilities relating thereto. 1978, c. 94, s. 2 (2).

Incidental  
powers

R.S.O. 1980,  
c. 95

**14.** The Corporation possesses as incidental and ancillary to its objects those powers contained in subsection 23 (1) of the *Corporations Act* except clauses (c), (j), (q), (r) and (t) of that subsection. 1974, c. 134, s. 14.

Expropria-  
tion

R.S.O. 1980,  
c. 148

**15.** Subject to the *Expropriations Act*, the Corporation, for and in its own name, may, without the consent of the owner thereof, enter upon, take and expropriate any land or interest therein that it considers necessary for its use or purposes. 1974, c. 134, s. 15.

Use of  
services and  
facilities of  
ministries,  
etc.

**16.—(1)** In exercising its powers under this Act, the Corporation shall, where appropriate, make use of the



services and facilities of any ministry, board, commission or agency of the Government of Ontario.

(2) The Corporation may engage persons under contract or otherwise or obtain the appointment under the *Public Service Act* of such persons as are considered necessary from time to time for the proper conduct of the affairs of the Corporation. 1974, c. 134, s. 16. Staff  
R.S.O. 1980,  
c. 418

#### HEAD OFFICE AND CORPORATE SEAL

**17.** The Corporation shall have a head office at such place within Ontario as the Lieutenant Governor in Council shall, from time to time, designate. 1974, c. 134, s. 17. Head office

**18.** The Corporation shall have a seal which shall be adopted by resolution or by-law of the Board. 1974, c. 134, s. 18. Seal

#### FISCAL YEAR

**19.** The fiscal year of the Corporation commences on the 1st day of April in each year and ends on the 31st day of March in the following year. 1974, c. 134, s. 19. Fiscal  
year

#### LOANS AND ADVANCES

**20.—(1)** Subject to the approval of the Lieutenant Governor in Council, the Corporation may borrow from time to time such sums of money as it may consider requisite for any of its purposes and, for the purpose of such borrowing, may issue notes, bonds, debentures and other securities bearing interest at such rate or rates, and payable as to principal, interest and premium, if any, at such time or times and in such manner and in such place or places in Canada or elsewhere, and in the currency of such country or countries, as the Corporation may determine, and such notes, bonds, debentures and other securities may be made redeemable in advance of maturity, at such time or times, and at such price or prices, and in such manner, and either with or without premium, as the Corporation may determine at the time of issue thereof. General  
borrowing  
powers

(2) Where, under subsection (1), the Board, with the approval of the Lieutenant Governor in Council, has passed a resolution authorizing the borrowing of money by the issue from time to time of notes, bonds, debentures or Idem

other securities maturing not later than five years from the respective dates thereof and bearing interest at a rate or rates not exceeding the maximum rate of interest specified in the resolution, the Board without any further approval of the Lieutenant Governor in Council may subsequently and from time to time authorize the issue of such notes, bonds, debentures or other securities, within the maximum principal amount prescribed by such resolution, bearing such respective dates, maturing not later than five years from such respective dates, and bearing interest at such respective rates not exceeding the said maximum interest rate, as the Board, in its discretion, may from time to time determine.

Purposes of  
Corporation

(3) The purposes of the Corporation, mentioned in subsection (1), without limiting the generality thereof, include,

- (a) repayment on account of the advances by the Province of Ontario to the Corporation;
- (b) payment in whole or in part of any notes, bonds, debentures or other securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances from the Province of Ontario to the Corporation;
- (c) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Corporation under this or any other Act;
- (d) payment of the whole or any part of any loan or of any liability or of any notes, bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation;
- (e) payment of the whole or any part of any other liability or indebtedness of the Corporation; and
- (f) carrying out any of the objects and powers of the Corporation referred to in section 13.

Resolution  
conclusive

(4) Where a resolution of the Board authorizing the issue of securities contains a recital or declaration that the amount of the securities so authorized is necessary to realize the net sum required for the purposes of the Corporation, the recital or declaration is conclusive evidence of the facts stated therein.

(5) The Corporation may sell or otherwise dispose of any such notes, bonds, debentures and other securities at such price or prices, and on such terms and conditions, as it considers advisable, and either at the face amount thereof or at less or more than the face amount thereof, and may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

Corporation  
may sell or  
pledge

(6) Any such securities dealt with as collateral security when redelivered to the Corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Corporation again becomes entitled to such securities, may be treated by the Corporation as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Board considers advisable, or at its option, may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

Reissue of  
securities

(7) The Corporation on such terms and conditions as it considers advisable may charge, pledge, hypothecate, deposit or otherwise deal with, as collateral security, any notes, bonds, debentures or other securities purchased by it under section 13.

Corporation  
may pledge  
securities

(8) The notes, bonds, debentures and other securities of the Corporation shall be in such form or forms and in such denomination or denominations and shall be executed in such manner and by such persons as the Board may determine.

Form and  
execution of  
securities

(9) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and any signatures upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Reproduction  
of seal and  
signatures

(10) The seal of the Corporation when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Corporation notwithstanding that a person whose signature is so repro-

Effect of  
mechanical  
reproduction  
of seal and  
signatures

duced has ceased to hold office before the date of the security or before its issue. 1974, c. 134, s. 20.

Authority  
to loan  
money to the  
Corporation

**21.**—(1) The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold as evidence thereof bonds, debentures, notes or other evidences of indebtedness of the Corporation.

Moneys

(2) Notwithstanding the provisions of section 30, the moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. 1974, c. 134, s. 21.

Government  
authorized  
to raise  
funds for  
purposes of  
Corporation  
R.S.O. 1980,  
c. 161

**22.** The Lieutenant Governor in Council may raise by way of loan in the manner provided by the *Financial Administration Act* such sums as he considers requisite for the purposes of this Act, and the sums so raised may either be advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Corporation issued by the Corporation under this Act. 1974, c. 134, s. 22.

Advances  
may be made  
on terms and  
conditions  
agreed upon

**23.** All advances made by the Province of Ontario to the Corporation shall be made on such terms and conditions as are agreed upon between the Corporation and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Corporation, in consideration of any advance, may,

- (a) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Corporation for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates, and payable as to both principal and interest in the same currency or currencies as the debentures or other securities of the Province of Ontario issued for the purpose of raising the money advanced by the Province of Ontario to the Corporation, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and
- (b) agree to reimburse the Province of Ontario for all charges and expenses incurred or to be incurred by the Province of Ontario in connection with the creation and issue of such debentures or other securities of the Province of Ontario and the pay-



ment from time to time of the interest thereon and the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on the redemption, and such other charges and expenses as the Province of Ontario incurs. 1974, c. 134, s. 23.

**24.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation, borrow by way of temporary loan from any chartered bank to which the *Bank Act* (Canada) applies, from any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business or from any person such sums as the Corporation considered requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Temporary  
loans

1980-81,  
c. 40 (Can.)

(2) For the purposes of subsection (1), the Corporation may pledge as security, notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Corporation, or otherwise give such security as the Corporation determines, and any cheques, promissory notes or other instruments that may be necessary or desirable for the purposes of subsection (1) or this subsection may be executed in such manner as the Corporation determines. 1974, c. 134, s. 24.

Security for  
temporary  
loans

**25.** Where the Legislature has appropriated money for the purposes of the Corporation, such money is payable out of such appropriation to the Corporation from time to time upon the requisition of the chairman of the Corporation and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Corporation to the Province of Ontario and notwithstanding anything in the *Financial Administration Act*. 1974, c. 134 s. 25.

Payment  
over to  
Corporation  
of moneys  
appropriated

R.S.O. 1980,  
c. 161

#### GENERAL

**26.** The notes, bonds, debentures and other securities issued by the Corporation are authorized investments for the funds of a corporation to which the *Loan and Trust Corporations Act* or the *Insurance Act* apply and are

Corporation  
securities  
authorized  
investments  
R.S.O. 1980,  
cc. 249, 218

R.S.O. 1980,  
cc. 373, 512

authorized investments under the *Pension Benefits Act* and the *Trustee Act*. 1974, c. 134, s. 26.

Management  
of funds

**27.**—(1) The Corporation may from time to time, for the sound and efficient management of its funds, in its discretion and on such terms and conditions as it may consider advisable, purchase, acquire, hold and sell or otherwise dispose of any of the following securities:

1. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or Ontario or any other province of Canada.

R.S.O. 1980,  
c. 218

2. The bonds, debentures or other evidences of indebtedness of corporations referred to in clauses 388 (1) (c), (e), (f), (g), (i) and (k) of the *Insurance Act* and in which joint stock insurance companies may invest their funds.

1980-81,  
c. 40 (Can.)

3. The deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies, or by any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business.

R.S.O. 1980,  
c. 249

4. The guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*.

Deposit of  
funds

(2) The Corporation may deposit from time to time any part of its funds in any chartered bank to which the *Bank Act* (Canada) applies or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act* or with the Province of Ontario Savings Office, upon such terms and conditions and for such periods as the Corporation may consider expedient. 1974, c. 134, s. 27.

#### ANNUAL REPORT

Annual  
report

**28.**—(1) The Corporation shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Corporation signed by the chairman and one other director of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

(2) In addition to making an annual report under sub-section (1), the Corporation shall make to the Minister such other report on its affairs as the Minister from time to time may require. 1974, c. 134, s. 28. Additional reports

#### AUDIT OF ACCOUNTS

**29.**—(1) The accounts and financial transactions of the Corporation shall be audited annually by an auditor or firm of auditors appointed by the Corporation and such auditor or firm of auditors, so appointed, shall be under the direction of and report to the Provincial Auditor. Audit of accounts

(2) A report on the audit shall be made by the Provincial Auditor to the Corporation and to the Minister. Report

(3) The expenses of such audits shall be fixed by the Corporation, with the approval of the Lieutenant Governor in Council, and are payable by the Corporation as part of the costs of administration of the Corporation. Expenses of audits

(4) The audited accounts of the Corporation shall form part of the annual report of the Corporation. 1974, c. 134, s. 29. Audit to form part of annual report

**30.** The moneys required for the purpose of defraying the operating expenses of the Corporation shall be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 134, s. 30, *revised*. Moneys





## CHAPTER 343

Ontario Law Reform Commission  
Act

**1.**—(1) The commission known as “Ontario Law Reform Commission” is continued. Ontario Law Reform Commission continued

(2) The Commission shall be composed of three or more members appointed by the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council may designate one of the members as chairman. Chairman

(4) The Lieutenant Governor in Council may fix the remuneration of the members of the Commission. Remuneration

(5) The Commission may engage a secretary and such other persons as are considered necessary and provide for the payment of their remuneration and expenses out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1970, c. 321, s. 1. Employees

**2.**—(1) It is the function of the Commission to inquire into and consider any matter relating to, Functions

(a) reform of the law having regard to the statute law, the common law and judicial decisions;

(b) the administration of justice;

(c) judicial and quasi-judicial procedures under any Act;  
or

(d) any subject referred to it by the Attorney General.

(2) The Commission may institute and direct legal research for the purpose of carrying out its functions. Research

(3) The Commission shall report from time to time to the Attorney General. R.S.O. 1970, c. 321, s. 2; 1972, c. 1, s. 9 (7). Report

**3.** The moneys required for the purposes of this Act shall be paid out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1970, c. 321, s. 3. Expenses of administration



## CHAPTER 344

## Ontario Lottery Corporation Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the board of directors of the Corporation;
- (b) "Corporation" means Ontario Lottery Corporation;
- (c) "lottery scheme" includes a lottery, a game of chance and a game of mixed chance and skill;
- (d) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act. 1974, c. 126, s. 1.

2. The Minister is responsible for the administration of this Act. 1974, c. 126, s. 2.

Minister  
responsible

3.—(1) Ontario Lottery Corporation is continued as a corporation without share capital and shall consist of not fewer than three and not more than nine members appointed by the Lieutenant Governor in Council.

Ontario  
Lottery  
Corporation  
continued

(2) The members shall be the directors of the Corporation and shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Directors

(3) The Corporation shall have a seal which shall be adopted by resolution or by-law.

Seal

(4) The fiscal year of the Corporation shall be the same as the fiscal year for the Consolidated Revenue Fund. 1974, c. 126, s. 3.

Fiscal  
year

4.—(1) The Lieutenant Governor in Council shall designate one of the members to be chairman of the Board and may designate one of the members to be vice-chairman of the Board.

Chairman  
and  
vice-  
chairman

(2) In the case of the absence or illness of the chairman or there being a vacancy in the office of chairman, the vice-chairman or, if none, such director as the Board

Acting  
chairman

designates for such purpose shall act as and have all the powers of the chairman.

**Quorum**

(3) A majority of the directors constitutes a quorum of the Board. 1974, c. 126, s. 4.

**Board of directors**

**5.**—(1) The affairs of the Corporation are under the management and control of the Board, and the chairman shall preside at all meetings of the Board, or, in his absence, or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman.

**By-laws**

(2) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

**Powers of Board**

R.S.O. 1980,  
c. 95

(3) The Board has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act*, and in section 23 of that Act, except clauses (h), (j), (m), (p), (q), (r), (s), (t), (u) and (v) but otherwise the *Corporations Act* does not apply to the Corporation. 1974, c. 126, s. 5.

**Staff**

**6.**—(1) The Corporation may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications, salary ranges and other benefits for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications, salary ranges and benefits so approved.

**Application of  
R.S.O. 1980,  
c. 419**

(2) The *Public Service Superannuation Act* applies to the employees of the Corporation as though the Corporation is a board designated by the Lieutenant Governor in Council under section 28 of that Act. 1974, c. 126, s. 6.

**Objects**

**7.** The objects of the Corporation are,

- (a) to develop, undertake, organize, conduct and manage lottery schemes on behalf of Her Majesty in right of Ontario;
- (b) where authorized by the Lieutenant Governor in Council, to enter into agreements to develop, undertake, organize, conduct and manage lottery schemes on behalf of or in conjunction with the Government of Canada or the government of one or more of the other provinces of Canada;



- (c) to do such other things as the Lieutenant Governor in Council may require from time to time. 1974, c. 126, s. 7.

**8.** The Corporation, with the approval of the Lieutenant Governor in Council, may make regulations, <sup>Regulations</sup>

- (a) limiting and regulating the sale of lottery tickets of the Corporation by persons other than the Corporation and prescribing the fees, commission and discount in such sales;
- (b) governing the manner of selecting prize winners under any lottery or class of lottery conducted by the Corporation;
- (c) prescribing the conditions and qualifications for entitlement to prizes in lotteries or any class of lottery;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1974, c. 126, s. 8.

**9.** The net profits of the Corporation after provision for prizes and the payment of expenses of operations shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct, to be available for the promotion and development of physical fitness, sports, recreational and cultural activities and facilities therefor. 1974, c. 126, s. 9. <sup>Profits</sup>

**10.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may deem expedient. <sup>Advances</sup>

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. 1974, c. 126, s. 10. <sup>Idem</sup>

**11.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor. 1974, c. 126, s. 11. <sup>Audit</sup>

**12.**—(1) The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before <sup>Annual report</sup>

the Assembly if it is in session or, if not, at the next ensuing session.

Other  
reports

(2) The Corporation shall make such further reports to the Minister as the Minister may from time to time require. 1974, c. 126, s. 12.

## CHAPTER 345

## Ontario Mental Health Foundation Act

## PART I

## THE ONTARIO MENTAL HEALTH FOUNDATION

**1.** The corporation known as The Ontario Mental Health Foundation, herein referred to as "the Foundation", is continued. R.S.O. 1970, c. 322, s. 1.

**2.—(1)** The Foundation shall consist of not fewer than seven members who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any vacancies that may occur from time to time in the membership of the Foundation.

(3) Five of the members of the Foundation constitute a quorum for the transaction of business. R.S.O. 1970, c. 322, s. 2.

**3.—(1)** The Lieutenant Governor in Council may appoint one of the members to be chairman of the Foundation and another of the members to be vice-chairman of the Foundation.

(2) The chairman shall preside at all meetings of the Foundation at which he is present and in his absence the vice-chairman shall preside and in the absence of both the chairman and the vice-chairman the members present shall elect one of themselves to preside. R.S.O. 1970, c. 322, s. 3.

**4.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may appoint an advisory medical board consisting of such persons representative of the medical faculties of University of Toronto, Queen's University, The University of Western Ontario and Université d'Ottawa, and of psychiatrists and the medical profession generally as the Foundation considers appropriate. R.S.O. 1970, c. 322, s. 4.

**5.** The object of the Foundation is to establish and conduct a program of research, diagnosis and treatment in mental health, including;

- (a) the establishment, maintenance and operation of research, diagnostic and treatment centres in general hospitals and elsewhere;
- (b) the transportation of patients and escorts to its treatment centres or to community hospitals for diagnosis, treatment or investigation;
- (c) the establishment, maintenance and operation of hostels in connection with its treatment centres and community hospitals;
- (d) the laboratory and clinical investigation of psychiatric disorders;
- (e) the co-ordination of facilities for treatment;
- (f) the adequate reporting of cases and the recording and compilation of data;
- (g) the education of the public in the importance of early recognition and treatment;
- (h) the providing of facilities for under-graduate and post-graduate study;
- (i) the training of technical personnel; and
- (j) the providing and awarding of research fellowships. R.S.O. 1970, c. 322, s. 5.

**Agreements**

**6.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out the object of the Foundation. R.S.O. 1970, c. 322, s. 6.

**Staff**

**7.** The Foundation may employ a director and officers, clerks and servants and may engage the services of experts and other persons and may pay such director, officers, clerks, servants, experts and other persons such remuneration as it considers proper out of its funds. R.S.O. 1970, c. 322, s. 7.

**By-laws**

**8.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may make such by-laws, rules and regulations as are considered expedient for the administration of its affairs. R.S.O. 1970, c. 322, s. 8.

**Funds**

**9.** The funds of the Foundation consist of moneys received by it from any source, including moneys appro-



priated for its use by the Parliament of Canada or the Legislature of Ontario, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper. R.S.O. 1970, c. 322, s. 9.

**10.** The real and personal property, business and income of the Foundation is not subject to taxation for municipal or provincial purposes. R.S.O. 1970, c. 322, s. 10. Exemption from taxation

**11.** The members of the Foundation and its medical advisory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. R.S.O. 1970, c. 322, s. 11. Expenses

**12.** The accounts of the Foundation shall be audited annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council may designate, in which event the costs of the audit shall be paid out of the funds of the Foundation. R.S.O. 1970, c. 322, s. 12. Audit

**13.—(1)** The Foundation shall after the close of each fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Foundation during the preceding year. Annual report

**(2)** The Minister of Health shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 322, s. 13. Idem

## PART II

### CLARKE INSTITUTE OF PSYCHIATRY

**14.** The corporation known as the "Clarke Institute of Psychiatry", in this Part referred to as the "Institute", is continued. R.S.O. 1970, c. 322, s. 14, *revised*. Clarke Institute of Psychiatry

**15.—(1)** The Institute shall consist of not fewer than seven and not more than twelve persons to be appointed by the Lieutenant Governor in Council, of whom two shall be appointed upon the recommendation of the Minister of Health, at least two shall be members of the Foundation, and the remainder shall be appointed from among a list of Members

persons nominated by the Foundation, and the persons who constitute the Institute also constitute the board of trustees of the Institute, in this Part referred to as the "Board".

**Term of  
office**

(2) A member of the Institute shall hold office for three years and is eligible for reappointment for a second term of three years, but a member other than the chairman is not eligible for reappointment after having served a second term of three years until a period of twelve months has elapsed from the date of his retirement.

**Vacancies**

(3) The Lieutenant Governor in Council may fill any vacancies that occur from time to time in the membership of the Institute in accordance with the method of appointment prescribed by subsection (1). R.S.O. 1970, c. 322, s. 15.

**Quorum**

**16.** One-half of the total number of members of the Institute constitutes a quorum for the transaction of business at a meeting. R.S.O. 1970, c. 322, s. 16.

**Chairman**

**17.** The Lieutenant Governor in Council may appoint a member of the Foundation, or a member of the Institute appointed upon the nomination of the Foundation, as chairman of the Institute, who shall on appointment also be the chairman of the Board. R.S.O. 1970, c. 322, s. 17.

**Objects**

**18.** The objects of the Institute are to maintain, manage and operate a hospital with facilities for psychiatric research, education, diagnosis and treatment. R.S.O. 1970, c. 322, s. 18.

**Agreements  
with  
universities**

**19.—(1)** Subject to the approval of the Foundation, the Institute may enter into agreements with any university for providing teaching or research facilities for that university in the hospital maintained and operated under this Act.

**Other  
agreements**

(2) The Institute may enter into agreements with the Foundation or any university, medical association, hospital or any person for the purpose of carrying out the objects of the Institute. R.S.O. 1970, c. 322, s. 19.

**Director  
and staff**

**20.** The Institute may employ a director and such staff as may from time to time be required for the purposes of the Institute and may pay such director and staff such remuneration as it considers proper out of its funds. R.S.O. 1970, c. 322, s. 20.

**By-laws,  
etc.**

**21.** Subject to the approval of the Foundation, the Institute may make such by-laws, rules or regulations as are

considered expedient for the administration of its affairs.  
R.S.O. 1970, c. 322, s. 21.

**22.**—(1) The funds of the Institute consist of moneys <sup>Funds</sup> received by it from any source, including the Foundation, and the Institute may disburse, expend or otherwise deal with any of its funds in such manner, not contrary to law, as it considers proper.

(2) The Institute shall annually prepare and submit to <sup>Estimates</sup> the Foundation the estimates of the moneys required for its purposes during its ensuing fiscal year. R.S.O. 1970, c. 322, s. 22.

**23.** The real and personal property, business and in- <sup>Exemption</sup> come of the Institute are not subject to taxation for municipi- <sup>from</sup> <sup>taxation</sup> pal or provincial purposes. R.S.O. 1970, c. 322, s. 23.

**24.** The members of the Institute may be paid such <sup>Expenses</sup> amounts for travelling and other expenses incurred in the work of the Institute as the Institute may determine from time to time. R.S.O. 1970, c. 322, s. 24.

**25.** The accounts and financial transactions of the Insti- <sup>Audit</sup> tute shall be audited annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council may appoint. R.S.O. 1970, c. 322, s. 25.

**26.**—(1) The Institute shall, after the close of each <sup>Annual</sup> fiscal year, make a report on its affairs during the preceding <sup>report</sup> year to the Minister of Health and to the Foundation, and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Institute during the preceding year.

(2) The Minister of Health shall submit the report to <sup>Idem</sup> the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 322, s. 26.

**27.**—(1) The Institute may admit any person,

<sup>Admission</sup>  
<sup>to Institute</sup>

(a) upon his own oral or written application;

(b) in the case of any person under the age of sixteen years, upon the oral or written application of a parent or the person who stands *in loco parentis* to the person seeking admission.

(2) For the purposes of this Part,

<sup>Application</sup>  
<sup>of</sup>  
<sup>R.S.O. 1980,</sup>  
<sup>cc. 263, 391</sup>

(a) sections 13 and 14 of the *Mental Hospitals Act*; and

- (b) sections 13 to 15, subsection 20 (1) and (3), subsection 24 (3), sections 36, 37, 44 to 46 and 55 of the *Private Sanitaria Act*,

apply with necessary modifications to the Institute, and, for the purposes of this subsection, the Institute shall be deemed to be an institution or sanitarium, as the case may be, and the psychiatrist designated by the Board may exercise all the powers conferred on, and perform all the functions exercisable by, the superintendent of an institution or sanitarium, as the case may be.

Accommoda-  
tion  
available

(3) Notwithstanding subsections (1) and (2), a person may be admitted to the Institute only after the Institute has informed the applicant that accommodation is available for the person to be admitted. R.S.O. 1970, c. 322, s. 27.

Transfer  
to public  
hospital

**28.** A patient in the Institute may be transferred to a public hospital for treatment and may be returned to the Institute upon the conclusion of the treatment. R.S.O. 1970, c. 322, s. 28.

Charges for  
services

**29.** The Board may prescribe and collect charges for its services to a person who is or has been a patient in the Institute. R.S.O. 1970, c. 322, s. 29.

Limitation  
of actions

**30.—(1)** All actions against any person for anything done or omitted to be done in pursuance or in purported pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards.

Torts of  
patients

(2) No action lies against the Institute or an officer, employee or servant thereof for a tort of a patient. R.S.O. 1970, c. 322, s. 30.



## CHAPTER 346

## Ontario Mineral Exploration Program Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “applicant” means a person who has applied for a grant or a tax credit under this Act;
- (b) “application” means an application for a grant or a tax credit under this Act;
- (c) “associate”, where used to indicate a relationship with any person, means,
  - (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,
  - (ii) any partner of that person or corporation,
  - (iii) any trust or estate in which such person or corporation has, in the opinion of the Minister, a substantial beneficial interest or as to which such person or corporation serves as trustee or in a similar capacity,
  - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
  - (v) any relative of such person or of his spouse, other than a relative referred to in subclause (iv), who has the same home as such person;
- (d) “designated program of mineral exploration” means a program of mineral exploration in Ontario designated by the Minister under section 2;
- (e) “eligible exploration expense” means a prescribed exploration expense incurred in a designated program of mineral exploration and paid in the year in respect of which the application is made;
- (f) “equity share” means any share of any class of shares of a corporation carrying voting rights under all circumstances and any share of any class of shares carrying

voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

- (g) "maximum grant limit" means the maximum aggregate amount of grants and tax credits in respect of a designated program of mineral exploration set by the Minister under subsection 2 (5);
- (h) "mineral exploration" means prospecting or exploring for a mineral resource;
- (i) "mineral resource" means a base or precious metal deposit, a coal deposit or such other minerals as may be prescribed;
- (j) "Minister" means the Minister of Natural Resources or such other member of the Executive Council to whom the administration of this Act is assigned;
- (k) "Ministry" means the Ministry of the Minister;
- (l) "person" means,
  - (i) an individual, partnership or limited partnership,
  - (ii) an unincorporated association, syndicate or organization,
  - (iii) a trust, trustee, executor, administrator or other legal representative, or
  - (iv) a corporation;
- (m) "prescribed" means prescribed by the regulations;
- (n) "regulations" means the regulations made under this Act.

Calculation  
of total  
number of  
equity shares

(2) In calculating the total number of equity shares that a corporation beneficially owned or controlled, for the purpose of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.

Application of  
R.S.O. 1980,  
c. 475,  
s. 1 (2, 4, 5)

(3) In determining whether one corporation is affiliated with another corporation, subsections 1 (2), (4) and (5) of the *Small Business Development Corporations Act* apply. 1980, c. 20, s. 1.

Designation  
of program  
of mineral  
exploration

**2.—(1)** In each year, a person who proposes to carry out a program of mineral exploration in Ontario may apply to have the

program designated by the Minister under this Act and the Minister, subject to such terms and conditions as may be prescribed, may in his discretion designate such a program for the purposes of this Act.

(2) A designation under subsection (1) shall not be made by the Minister where the person who applies for designation is, Where designation not to be made

- (a) actively engaged in mineral production in Ontario; or
- (b) an affiliated corporation or an associate of any person who is actively engaged in mineral production in Ontario.

(3) No program of mineral exploration that commenced prior to the coming into force of this Act shall be designated under subsection (1). Idem

(4) A designation under subsection (1) shall be for a stated period of time and the designation shall expire at the end of the period of time stated, but the period of time for which a mineral exploration program is designated may, upon request, be extended by the Minister. Period of designation

(5) At the time the Minister designates a program of mineral exploration under subsection (1), the Minister shall establish a maximum grant limit applicable to the program for the year. 1980, c. 20, s. 2. Maximum grant or tax credit limit

**3.—**(1) Upon application by a person in the form prescribed by the Minister, the Minister may, subject to the provisions of this Act, pay a grant to any person who is not a corporation and who, Application for and payment of grant

- (a) is ordinarily resident in Canada; and
- (b) is not actively engaged in mineral production in Ontario and is not an affiliated corporation or an associate of any person actively engaged in mineral production in Ontario,

in an amount equal to 25 per cent of the eligible exploration expenses incurred by such person.

(2) Upon application made in the form prescribed by the Minister by a corporation that is not actively engaged in mineral production in Ontario and is not an affiliated corporation or an associate of any person actively engaged in mineral production in Ontario, the Minister may issue a certificate in the prescribed form that such corporation is entitled to a tax credit in an amount equal to 25 per cent of the eligible exploration expenses incurred by the Certificate of entitlement to tax credit

R.S.O. 1980, c. 97 corporation and thereupon the corporation may deduct from the tax otherwise payable by it under Part II of the *Corporations Tax Act* the amount of the tax credit to which it is so entitled.

Pension funds

(3) A pension fund with 10 per cent or more of its contributors resident in Ontario that meets the prescribed terms and conditions shall be deemed to be a person ordinarily resident in Ontario.

Grants to corporations 1976, c. 62

(4) Notwithstanding subsection (1), a corporation incorporated as a credit union or caisse populaire under *The Credit Unions and Caisses Populaires Act, 1976* or a predecessor of that Act, and such other corporations as may be prescribed, may apply for and receive a grant under subsection (1) in lieu of a tax credit under subsection (2).

Carry forward of tax credit

(5) The unused portion of a tax credit obtained under subsection (2) may be carried forward by the corporation and deducted from the tax otherwise payable by the taxpayer under Part II of the *Corporations Tax Act* in subsequent taxation years.

Payment of grant in lieu of carry forward of tax credit

(6) Where a corporation is entitled to a tax credit under subsection (2) and the corporation is principally engaged in mineral exploration, the corporation may, in lieu of carrying the tax credit forward under subsection (5), apply to the Minister after the end of its taxation year in which it became entitled to the tax credit for the payment of a grant, and the Minister may pay a grant equal to the amount of the unused tax credit entitlement provided that the application is made within one year of the end of the corporation's taxation year in which it became entitled to the tax credit. 1980, c. 20, s. 3.

Supporting material

4.—(1) An application for any grant or tax credit under subsection 3 (1) or (2) shall be accompanied by,

- (a) financial statements or records setting out the amounts of money actually spent on eligible exploration expenses; and
- (b) such additional information as the Minister may prescribe.

Copy of tax credit certificate to Minister of Revenue

(2) Where a tax credit certificate is issued by the Minister under subsection 3 (2), the Minister shall at the same time send a duplicate of such certificate to the Minister of Revenue.

Where tax credit claimed R.S.O. 1980, c. 97

(3) Where a corporation claims a tax credit under subsection 3 (2), the annual return required under section 67 of the *Corporations Tax Act* in which the credit is claimed, shall be accompanied by a copy of the certificate of the Minister issued under subsection 3 (2) setting out the amount of the tax credit to which the corporation is entitled. 1980, c. 20, s. 4.



**5.**—(1) Only one application for a grant or tax credit available under section 3 shall be made for each designated program of mineral exploration unless otherwise agreed to by the Minister at the time the program is designated. One application only

(2) Where a designated program of mineral exploration is undertaken by or on behalf of a partnership, limited partnership or similar joint venture, the application shall be made on behalf of all such persons, and any grant or tax credit shall be available only to the persons who compose such partnership, limited partnership or joint venture calculated on the basis of the amount of money actually contributed and spent by or on behalf of each such person on eligible exploration expenses. Partnership, limited partnership or joint venture

(3) The aggregate amount of grants and tax credits that may be given by the Minister under section 3 in respect of any designated program of mineral exploration shall not exceed the maximum grant limit in any year. Maximum grant limit not to be exceeded

(4) Where an application under section 3 is made on behalf of more than one person and the amount of eligible exploration expenses entitles such persons to apply for grants or tax credits in an aggregate amount greater than the maximum grant limit, the Minister shall pro-rate the amounts of the grants among those persons eligible under subsections 3 (1) and (4) and the amounts of the tax credits among those persons eligible under subsection 3 (2) on the basis of the amount of money actually contributed and spent on eligible exploration expenses by such persons so that the aggregate of the grants paid and tax credits earned does not exceed the maximum grant limit. Pro-rating

(5) No grant may be paid or tax credit made available under section 3 by the Minister unless an application therefor has been received by the Minister within six months of the expiry of the designation under subsection 2 (4). 1980, c. 20, s. 5. Limitation on time for application

**6.** A grant or tax credit entitlement under this Act shall not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security a grant or entitlement to a tax credit is void. 1980, c. 20, s. 6. Grant or tax credit not assignable

**7.**—(1) The Minister upon receiving an application for a grant or tax credit under section 3 shall forthwith consider the application, and he may, Consideration of application by Minister

- (a) approve payment of a grant or claim to a tax credit and determine the amount thereof that may be paid or claimed by the applicant; or

- (b) determine that no grant may be paid or tax credit claimed by the applicant.

Notification  
of Minister's  
decision

(2) Where particulars of the basis on which the amount of any grant that may be paid or tax credit that may be claimed by the applicant was determined by the Minister are requested by the applicant, or where the Minister determines that no grant may be paid or tax credit claimed by the applicant, the Minister shall forthwith, in writing, notify the applicant of the basis upon which the amount was determined or of the basis upon which his determination was reached that no grant may be paid or tax credit entitlement claimed and shall notify the applicant of his right to object under this section.

Objection by  
applicant

(3) Where an applicant is dissatisfied with the determination of the Minister under subsection (1) or with the decision of the Minister under subsection (2), he may object to the determination or decision and within sixty days from the date of the notice of such determination or decision by the Minister, serve on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts.

Notice

(4) Notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section, notwithstanding that it was not served in the manner required.

Minister to  
reconsider

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination or decision objected to and confirm, vary or reverse such determination or decision, and he shall thereupon notify the person making the objection of his action by registered mail.

Minister's  
decision  
final

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. 1980, c. 20, s. 7.

Appeal on  
question  
of law

**8.** In any dispute over a determination or decision of the Minister under subsection 7 (5), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. 1980, c. 20, s. 8.

**9.**—(1) Except as provided in subsections (2) and (3), all information obtained under this Act by any officer, employee or agent of the Ministry is privileged and confidential, and no such officer, employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information. Information confidential

(2) Any information referred to in subsection (1) that is obtained by an officer, employee or agent of the Ministry in the administration of this Act may be communicated to any officer or employee of the Department of National Revenue of the Government of Canada, or of the Ministry of Revenue or of the Ministry of Treasury and Economics of the Government of Ontario. Exceptions

(3) Notwithstanding subsection (1), the Minister may publish particulars of any designated program of mineral exploration a year or more after such designation expires. 1980, c. 20, s. 9. Idem

**10.**—(1) Where a person receives or obtains a grant or a tax credit under this Act to which he is not entitled or the payment of an amount in excess of the grant or tax credit to which he is entitled, he shall forthwith return, Repayment of grant or tax credit where not entitled

(a) to the Minister in the case of a grant; or

(b) to the Minister of Revenue, in the case of a tax credit,

such grant or excess amount of grant or such tax credit that has been claimed or excess amount of tax credit claimed, as the case may be.

(2) Where a person receives or obtains the payment of a grant or claims a tax credit to which he is not entitled or the payment or claim of an amount in excess of the grant or tax credit to which he is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced at any time, and where applicable, the amount of any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act* or the *Corporations Tax Act*. 1980, c. 20, s. 10. Idem  
R.S.O. 1980, cc. 161, 97

**11.**—(1) Every person who, Offence

(a) knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant or tax credit under this Act to which he is not entitled or to which a person on whose behalf he is acting is not entitled;



- (b) knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant or entitlement to a tax credit under this Act to which he is not entitled or to which the person on whose behalf he is acting is not entitled;
- (c) knowingly, converts to his own use a payment of a grant or a tax credit entitlement under this Act to which he is not entitled; or
- (d) contravenes section 9 or 12,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or, if such person is a corporation, to a fine of not more than \$10,000.

Limitation (2) No proceedings in respect of an offence under this Act shall be commenced except within five years of the time when the offence was or is alleged to have been committed.

Corporation (3) Where a corporation is guilty of an offence under subsection (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1980, c. 20, s. 11.

Investigation **12.—**(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business or designated program of mineral exploration is carried on or any property is kept or where anything is done in connection with any such business or program of mineral exploration or where any books or records are kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or relative to the amount of a grant that may be paid or a tax credit claimed under this Act;
- (b) examine any lands or premises related to a designated program of mineral exploration, or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application for a grant or tax credit under this Act or in ascertaining the information that is or should be in the books or records or in any such application, or the amount of any grant that may be paid or tax credit that may be claimed under this Act;



- (c) require any person on the land or premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for a grant or tax credit under this Act.

Production  
of documents  
and records  
to Minister

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

Copies of  
documents  
and records

(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Compliance

(5) Any officer or employee in the Ministry who is authorized by the Minister may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. 1980, c. 20, s. 12.

Administra-  
tion of  
oaths

## Regulations

**13.**—(1) The Minister may make regulations,

- (a) prescribing any form, notification, certificate or statement to be prescribed or that is required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, notification, certificate or statement shall be completed and what information it shall contain and requiring any information to be verified by statutory declaration;
- (b) providing for the payment of interest where no grant was payable or tax credit permitted or on overpayments of a grant or claims of tax credit and prescribing the rate of interest payable thereon.

## Idem

## (2) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the evidence to be furnished to the Minister to establish facts relevant to the entitlement of any person to receive a grant or tax credit and to establish the amount of such grant or tax credit;
- (b) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (c) prescribing any matter required by this Act to be prescribed by the regulations;
- (d) prescribing a ceiling on the maximum grant limit that may be established by the Minister under subsection 2 (5);
- (e) defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
- (f) prescribing the conditions of eligibility to any grant or tax credit available under this Act.

## Retroactivity

## (3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1980, c. 20, s. 13.

## CHAPTER 347

## Ontario Municipal Board Act

## PART I

## INTERPRETATION

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “Board” means the Ontario Municipal Board;
- (b) “local board” means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (d) “public utility” means a waterworks, gasworks, including works for the production, transmission, distribution and supply of natural gas, electric heat, light and power works, and telegraph lines, or any works supplying the general public with necessities or conveniences.

(2) The interpretation sections of *The Railways Act* apply to this Act. R.S.O. 1970, c. 323, s. 1.

Interpre-  
tation under  
R.S.O. 1950,  
c. 331

2. The provisions of this Act relating to railways apply to all railways, whether operated by steam, electricity or other motive power, including street railways. R.S.O. 1970, c. 323, s. 2.

Application  
of Act to all  
railways

References  
to former  
board

**3.** Where in any general or special Act reference is made to the Ontario Railway and Municipal Board or to that board under any other name, it shall be deemed that such reference is made to the Board as named in this Act. R.S.O. 1970, c. 323, s. 3.

## PART II

### CONSTITUTION OF BOARD

Municipal  
Board  
continued

**4.** The Ontario Municipal Board is continued under the provisions of this Act. R.S.O. 1970, c. 323, s. 4.

Com-  
position  
of Board

**5.—(1)** The Board shall be composed of as many members as the Lieutenant Governor in Council may from time to time determine.

Appoint-  
ments

(2) The Lieutenant Governor in Council shall appoint the members of the Board and shall appoint one member as chairman and may appoint one vice-chairman or more.

Salary

(3) A member of the Board shall be paid such salary as may be fixed by the Lieutenant Governor in Council.

How  
payable

(4) The salaries and travelling expenses of members of the Board are payable out of the moneys appropriated therefor by the Legislature.

Application of  
R.S.O. 1980,  
c. 418

(5) The *Public Service Act*, except sections 4 and 6, applies to members of the Board.

Application of  
R.S.O. 1980,  
c. 419

(6) The *Public Service Superannuation Act* applies and shall be deemed always to have applied to members of the Board. R.S.O. 1970, c. 323, s. 5.

Vacancies

**6.** Vacancies in membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. R.S.O. 1970, c. 323, s. 6.

Tenure of  
office

**7.** Members of the Board shall hold office during pleasure. R.S.O. 1970, c. 323, s. 7.

Absence,  
etc., of  
chairman

**8.** Where,

(a) the chairman is absent or unable to act, a vice-chairman designated by the chairman; or

(b) the office of chairman is vacant, a vice-chairman designated by the Attorney General,



has and shall exercise the jurisdiction and powers of the chairman, including the power to complete any unfinished matter. R.S.O. 1970, c. 323, s. 8; 1972, c. 1, s. 11 (1).

**9.** Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall conclusively be presumed that he has so acted in the absence or disability of or vacancy in the office of the chairman. R.S.O. 1970, c. 323, s. 9. Presumption of having duly acted

**10.** A vacancy in membership of the Board or the absence or inability of a member to act does not impair the powers of the Board or of the remaining members who shall exercise all the jurisdiction and powers of the Board. R.S.O. 1970, c. 323, s. 10. Powers of Board on vacancy

**11.**—(1) Where a member of the Board resigns his office, retires or is appointed to another position in the service of the Crown, he shall, during such period of time as the Lieutenant Governor in Council designates, in respect of any application, proceeding, matter or thing heard before him or commenced by him as a member of the Board, have and exercise the jurisdiction and powers of a member of the Board including the power to complete any unfinished matter and give a decision therein as if he had not so resigned, retired or been appointed. Completion of matters by members who retire, resign, etc.

(2) An order in council under subsection (1) may be made before or after such resignation, retirement or appointment and may be retroactive in effect. R.S.O. 1970, c. 323, s. 11. Order in council

**12.**—(1) Except as provided in section 15, two members of the Board form a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board and not fewer than two members shall attend at the hearing of every application. Quorum

(2) Where the number of members of the Board attending at the hearing of an application is more than two, the number shall be uneven, and the decision of the majority of such members constitutes the decision of the Board. Where more than two members attend hearing

(3) All orders, rules, regulations, certificates and other documents made or issued by the Board may be signed by any member of the Board or the secretary of the Board or any officer of the Board designated by the Lieutenant Governor in Council as a signing officer. R.S.O. 1970, c. 323, s. 12. Signature of orders, etc.

**13.** The chairman shall from time to time assign the members of the Board to its various sittings and may change Assignment of members and staff for sittings

any such assignments at any time and the chairman may from time to time direct any officer or other member of the staff of the Board to attend any of the sittings of the Board and may prescribe his duties. R.S.O. 1970, c. 323, s. 13.

Questions  
of law

**14.** The chairman, when present, shall preside at all sittings of the Board, and his opinion upon any question of law shall prevail. R.S.O. 1970, c. 323, s. 14.

One member  
may hear and  
determine  
application

**15.** The chairman may in writing authorize one member of the Board to hear and determine any application to the Board and for such purpose such member may exercise all the jurisdiction and powers of the Board and his decision on the application shall be a decision of the Board. 1972, c. 110, s. 1.

Attendance  
to duties

**16.** Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant Governor in Council, the members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. R.S.O. 1970, c. 323, s. 16.

Prohibition  
against,

**17.** No member or officer of the Board shall, directly or indirectly,

holding  
municipal  
securities,  
railway  
stock, etc.

(a) hold, purchase, take, deal in or become interested in any stock, bond, debenture, share or other security of any municipality in Ontario or of any railway or public utility company or any company that in any way controls a railway or public utility;

having  
interest in  
contract

(b) become concerned or interested in any contract, undertaking or work with or for any municipality, railway or public utility company;

having  
interest in  
appliances

(c) have any interest in any device, appliance, machine, patented process or article or in any part thereof that may be required or used for the purpose of the business of any municipality, railway or public utility company. R.S.O. 1970, c. 323, s. 17.

Duty to  
dispose of  
interest

**18.** If a member or officer of the Board, by will, succession, or otherwise for his own benefit, directly or indirectly, becomes the owner, holder or otherwise vested with or interested in any stock, bond, debenture, share, security, contract, undertaking, work, device, appliance, machine, patented process or article mentioned in section 17, he shall within one year thereafter absolutely sell and dispose of the same or his interest therein. R.S.O. 1970, c. 323, s. 18.

**19.** No member or officer of the Board shall act as director or officer of any railway or public utility company or of any company that has power to invest any portion of its funds in the securities of a municipality, railway or public utility company. R.S.O. 1970, c. 323, s. 19.

Members of Board not to be officers or directors of certain companies

**20.** For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or by the Lieutenant Governor in Council, the Board may, with the consent of the Minister in charge of any ministry of the Government, avail itself of the services of any officer or employee of such ministry, and for any such purpose it may, with the approval of the Lieutenant Governor in Council, avail itself of the services of any member, officer or employee of any board or commission established by Act of the Legislature. R.S.O. 1970, c. 323, s. 20; 1972, c. 1, s. 2.

Securing assistance for purpose of inquiry

**21.** The Lieutenant Governor in Council shall provide within the City of Toronto a suitable place in which the sittings of the Board may be held and also suitable offices for the members, secretary, staff and other employees and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same and for the performance of the duties of the Board. R.S.O. 1970, c. 323, s. 21.

Offices at Toronto

**22.** The Board shall sit at such times and places within Ontario as the chairman may from time to time designate and shall conduct its proceedings in such manner as it may consider most convenient for the speedy and effectual dispatch of its duties. R.S.O. 1970, c. 323, s. 22.

Sittings of Board

**23.** The sittings of the Board may be either private or open to the public, but any complaint made to the Board shall, on the application of any party thereto, be publicly heard. R.S.O. 1970, c. 323, s. 23.

Private or public

**24.** Where sittings of the Board or any member thereof are appointed to be held in any municipality in which a court house is situate, the Board or members have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. R.S.O. 1970, c. 323, s. 24.

Use of court house

**25.** Where sittings of the Board or any member thereof are appointed to be held in any municipality in which there is a hall belonging to the corporation thereof, but no court

Use of town hall



house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose. R.S.O. 1970, c. 323, s. 25.

**Experts**

**26.**—(1) The Lieutenant Governor in Council may from time to time, upon the recommendation of the Board, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question in respect of any particular matter or subject before the Board to assist the Board in an advisory or other capacity.

**Acting member**

(2) The Lieutenant Governor in Council, on the recommendation of the chairman of the Board, may from time to time appoint as an acting member of the Board a person who, in the opinion of the chairman, is specially qualified to assist the Board with respect to any particular application to be assigned by the chairman to act with any two members of the Board for the purpose of hearing and determining such application and the person so appointed has all the powers of a member of the Board for such purpose and is entitled to such remuneration as the Lieutenant Governor in Council may authorize. R.S.O. 1970, c. 323, s. 26.

**Secretary**

**27.**—(1) There shall be a secretary of the Board who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

**Acting secretary**

(2) Where the office of the secretary is vacant or in his absence or inability to act, the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. R.S.O. 1970, c. 323, s. 27.

**Duties of secretary:**

**28.** It is the duty of the secretary,

**keep minutes**

(a) to keep a record of all applications to and proceedings before the Board or any member;

**custody of records**

(b) to have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Board or any member, or filed in his office;

**authentication of regulations, orders, etc.**

(c) to have every order, rule, regulation and certificate drawn pursuant to the directions of the Board and according to the provisions of any statute affecting the same properly authenticated and issued, filed and otherwise dealt with as may be requisite;



- (d) to keep proper books of record in which he shall cause to be entered a true copy of every order, rule and regulation made by the Board and of every other document that the Board may require to be entered therein, and such entry constitutes and is the original record of every such order, rule, regulation and document; record books
- (e) to carry out such other functions and duties as may by statute, the Lieutenant Governor in Council or the Board be assigned to him or his office; other matters
- (f) to obey all rules, regulations and directions made or given by the Board touching his duties or his office. R.S.O. 1970, c. 323, s. 28. obey directions

**29.** Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any order, rule, regulation, certificate or other document made, given or issued by the Board. R.S.O. 1970, c. 323, s. 29. Certified copies of regulations or orders

**30.** Whenever the Board by virtue of any power vested in it appoints or directs any person other than a member of the staff of the Board to perform any service required by this or any other Act, such person shall be paid such sum for services and expenses as, upon the recommendation of the Board, the Lieutenant Governor in Council may approve. R.S.O. 1970, c. 323, s. 30. Remuneration of appointee

**31.** No member of the Board or its secretary or any of its staff is required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. R.S.O. 1970, c. 323, s. 31. Protection from being called as witnesses

**32.** No member of the Board or its secretary or any of its staff is personally liable for anything done by it or by him under the authority of this or any other Act. R.S.O. 1970, c. 323, s. 32. Protection from personal liability

### PART III

#### GENERAL JURISDICTION AND POWERS

**33.** The Board for all purposes of this Act has all the powers of a court of record and shall have an official seal which shall be judicially noticed. R.S.O. 1970, c. 323, s. 33. Board to have powers of court of record and a seal

**34.** The Board, as to all matters within its jurisdiction under this Act, has authority to hear and determine all questions of law or of fact. R.S.O. 1970, c. 323, s. 34. Power to determine law and fact

Jurisdiction  
exclusive

**35.** The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. R.S.O. 1970, c. 323, s. 35.

General  
jurisdiction  
and powers

**36.** The Board has jurisdiction and power,

- (a) to hear and determine all applications made, proceedings instituted and matters brought before it under this Act or any other general or special Act and for such purpose to make such orders, rules and regulations, give such directions, issue such certificates and otherwise do and perform all such acts, matters, deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board under such Act;
- (b) to perform such other functions and duties as are now or hereafter conferred upon or assigned to the Board by statute or under statutory authority;
- (c) to order and require or forbid, forthwith or within any specified time and in any manner prescribed by the Board, the doing of any act, matter or thing or the omission or abstention from doing or continuance of any act, matter or thing, which any person, firm, company, corporation or municipality is or may be required to do or omit to be done or to abstain from doing or continuing under this or any other general or special Act, or under any order of the Board or any regulation, rule, by-law or direction made or given under any such Act or order or under any agreement entered into by such person, firm, company, corporation or municipality;
- (d) to make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue. R.S.O. 1970, c. 323, s. 36.

Powers of  
Supreme  
Court  
exercisable  
by Board

**37.** The Board, for the due exercise of its jurisdiction and powers and otherwise for carrying into effect the provisions of this or any other general or special Act, has all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. R.S.O. 1970, c. 323, s. 37.

**38.** Where, by the provisions of any letters patent or supplementary letters patent of any corporation, heretofore or hereafter issued under the *Corporations Act* or any other general or special Act, any jurisdiction is conferred upon the Board or it is provided that any matter in any way may be referred to the Board with respect thereto, it has power to inquire into, hear and determine all matters and things necessary or incidental to the due exercise of such jurisdiction and reference and to make and give orders, directions, regulations, rules, permissions, approvals, sanctions and certificates as to the Board may seem proper. R.S.O. 1970, c. 323, s. 38.

Jurisdiction  
under  
letters  
patent  
R.S.O. 1980,  
c. 95

**39.** Where by this or any other general or special Act the permission, approval or sanction of the Board is necessary to the exercise of any power or the doing, or the abstention from doing or continuing to do any act, matter, deed or thing, such power shall not be exercised or act, matter, deed or thing be done or abstained from being done or be continued until such permission, approval or sanction has been obtained. R.S.O. 1970, c. 323, s. 39.

Where  
Board's  
approval  
not given

**40.**—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant Governor in Council, inquire into, hear and determine any matter or thing that it may inquire into, hear and determine upon application or complaint, and with respect thereto has and may exercise the same powers as, upon any application or complaint, are vested in it.

When  
Board  
may act

(2) Any power or authority vested in the Board under this or any other general or special Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S.O. 1970, c. 323, s. 40.

Power to  
act from  
time to  
time

**41.**—(1) The Lieutenant Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct an inquiry or hearing or to represent the Board upon the argument of any appeal to the Divisional Court or to any other court in an appeal from the Divisional Court in cases where any such appeal may lie.

Appoint-  
ment of  
counsel

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. R.S.O. 1970, c. 323, s. 41.

Costs

**42.** The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. R.S.O. 1970, c. 323, s. 42.

Power  
to rehear,  
review, etc.



Board to  
inquire and  
report on  
certain  
matters at  
request

**43.** The Board shall, when required so to do by the Lieutenant Governor in Council, the Assembly or any committee thereof, make or cause to be made under its supervision an inquiry into any facts that the Lieutenant Governor in Council, the Assembly or any such committee may desire to ascertain before passing upon the propriety of any proposed change in the general law, or upon any proposed Bill relating to a municipality or to a railway or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such inquiry the Board shall report its opinion thereon. R.S.O. 1970, c. 323, s. 43.

Reference by  
Lieutenant  
Governor  
in Council  
for report

**44.** The Lieutenant Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a municipality, railway or public utility subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the order in council. R.S.O. 1970, c. 323, s. 44.

Inquiry on  
municipal  
organization

**45.** The Board shall upon the request of the Lieutenant Governor in Council inquire into and report on the establishment, organization, reorganization and methods of operation of any two or more municipalities in any designated area and any question, matter or thing relating thereto. R.S.O. 1970, c. 323, s. 45.

Board  
may order  
inquiries

**46.—(1)** The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

Costs

**(2)** The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. R.S.O. 1970, c. 323, s. 46.

General  
powers

**47.** The Board may order and require any person or company, corporation or municipality to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing that such person, company, corporation or municipality is or may be required to do under this Act, or under any other general or special Act, or under any regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing that is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. R.S.O. 1970, c. 323, s. 47.



**48.** The Board may require any person, company, corporation or municipality, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board considers necessary or expedient for the safety of life and property. R.S.O. 1970, c. 323, s. 48.

Adoption of  
appliances  
for pro-  
tection of  
life, etc.

**49.—**(1) When the Board, in the exercise of any power vested in it, by any order directs and any structure, appliances, equipment, works, renewals or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what person, company, corporation or municipality interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

Duty, to  
execute  
works  
ordered by  
Board

(2) The Board may order by whom, in what proportion and when, the costs and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid. R.S.O. 1970, c. 323, s. 49.

to pay  
expenses of  
them

**50.** If default is made by a person, company, corporation or municipality in the doing of any act, matter or thing, that the Board has authority under this or any other general or special Act, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person, company, corporation or municipality in default as money paid for and at his or its request, and the certificate of the Board of the amount so expended is conclusive evidence thereof. R.S.O. 1970, c. 323, s. 50.

Board's  
powers  
upon  
default in  
obeying  
order

**51.** The Board also has power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railways Act*. R.S.O. 1950, c. 331.

Enforcing  
orders of  
Board

**52.** The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may,

Powers  
respecting  
inquiries:

- (a) enter upon and inspect any place, building or works, entry  
being the property or under the control of any

company, the entry or inspection of which appears to it or him requisite;

inspection

(b) inspect any works, structure, rolling stock or property of the company;

attendance  
of witnesses

(c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make;

production  
of docu-  
ments, etc.

(d) require the production of all books, papers, plans, specifications, drawings and documents, relating to any matter before it or him;

oaths

(e) administer oaths,

summoning  
witnesses  
and  
enforcing  
attendance

and has the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things that they are required to produce, as is vested in any court in civil cases. R.S.O. 1970, c. 323, s. 52.

## PART IV

### GENERAL MUNICIPAL JURISDICTION

General  
municipal  
jurisdiction  
of the  
Board:  
approving  
borrowings

**53.**—(1) The Board has jurisdiction and power in relation to municipal affairs,

(a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act that may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;

approving  
by-laws

(b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain;

floating  
debt

(c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness that it may have incurred, upon such terms, in such manner and at such times as the Board may approve, or to direct that such floating indebtedness be paid in such other manner and within such time as the Board may require;

- (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures that are redeemable before maturity, and the raising of the sum required for payment of such new debentures in the same manner as the sum required for payment of the retired debentures;  
callable debentures
- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Board has approved;  
certifying validity of debentures
- (f) to direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Board to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite;  
assent of electors to by-laws
- (g) to supervise, where considered necessary, the expenditure of any moneys borrowed by a municipality with the approval of the Board;  
supervising certain expenditures
- (h) to require and obtain from any municipality at any time and for any definite period statements in detail of any of its affairs, financial and otherwise;  
detailed statement of affairs
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interest of the municipality, its rate-payers, inhabitants and creditors and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of a default by any municipality in meeting its obligations;  
power of investigation
- (j) when authorized by an agreement heretofore or hereafter entered into by two or more municipalities in which the municipalities agree to be bound by the decision of the Board, to hear and determine disputes in relation to such agreement;  
settlement of disputes between municipalities
- (k) where water or sewage service is supplied or to be supplied by one municipality to another municipality, to hear and determine the application of either municipality to confirm, vary or fix rates  
water or sewage service

charged or to be charged in connection with such water or sewage service;

**general**

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(l) generally, to exercise such jurisdiction and powers as by or under the authority of this Act or the *Municipal Act* or any other general or special Act are conferred upon the Board.

**Conflict**

(2) Clauses (1) (c) and (d) have effect notwithstanding any general or special Act. R.S.O. 1970, c. 323, s. 53.

**Voluntary application for approval of by-laws**

**54.** A municipality may apply to the Board for its approval of any by-law, the passing of which has been authorized by an order of the Board made pursuant to section 64. R.S.O. 1970, c. 323, s. 54.

**Application to Board for approval of by-law authorizing borrowing**

**55.** Any person the holder of or otherwise entitled to receive any debenture of a municipality or the proceeds of sale thereof or to whom a debt has been incurred or from whom money has been borrowed under the authority of any by-law of a municipality may apply to the Board for approval of the by-law, and the Board may approve the same. R.S.O. 1970, c. 323, s. 55.

**Approval to be withheld where litigation pending**

**56.** The Board shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal affair or matter, while the same or the validity thereof is called in question in any pending action or proceeding or by which it is sought to quash any by-law of a municipality relating thereto. R.S.O. 1970, c. 323, s. 56.

**Time for certifying validity of debentures**

**57.—(1)** The Board shall not certify the validity of any debenture issued under any by-law of a municipality until thirty days after the final passing of the by-law, unless such notice, if any, as the Board may direct has been published or given of the application for such certification.

**Exception**

(2) This section does not apply to any debenture authorized under clause 53 (1) (d) or to a consolidating by-law if every by-law consolidated was finally passed at least thirty days before certification. R.S.O. 1970, c. 323, s. 57.

**Validation of by-laws and debentures**

**58.—(1)** In any case where either prior or subsequent to the issue and sale of any debentures issued or to be issued by a municipality, application is made to the Board for its approval of any by-law authorizing the issue of such debentures, and of the debentures, the Board may approve the by-law and certify the validity of the debentures,



notwithstanding any omission, illegality, invalidity or irregularity in the by-law or debentures or in any of the proceedings relating or incidental thereto occurring, had or taken prior or subsequent to the final passing of the by-law or issue of the debentures.

(2) The Board shall not approve any by-law of a municipality or certify the validity of any debentures issued thereunder if the validity thereof is being questioned in any pending litigation or such by-law has been set aside, quashed or declared to be invalid by any court. R.S.O. 1970, c. 323, s. 58.

No approval if  
by-law  
quashed, etc.

**59.**—(1) Every debenture the validity of which is certified by the Board shall bear the seal and certificate of the Board establishing that the by-law under the authority of which the debenture is issued has been approved by the Board and that the debenture is issued in conformity therewith.

Debentures  
to be  
certified

(2) Notwithstanding subsection 12 (3), the certificate may be signed by any member of the Board or by a person specially authorized by the chairman and the signature may be written, printed or otherwise mechanically reproduced. R.S.O. 1970, c. 323, s. 59.

Signature  
on  
certificate

**60.** The certificate of the Board to the validity of any debenture of a municipality shall be in the following form:

Form of  
certificate

#### THE ONTARIO MUNICIPAL BOARD

In pursuance of the *Ontario Municipal Board Act*, the Board certifies that By-law No. .... of the corporation of the ..... of ....., passed on the ..... day of ....., 19...., has been approved by the Board, and that the within debenture, issued under the authority of such by-law and in conformity therewith, is valid and binding upon the said corporation and its validity may not be contested or questioned for any cause whatsoever.

Dated this ..... day of ....., 19....

(SEAL)

.....  
for the Board.

R.S.O. 1970, c. 323, s. 60.

**61.** Notwithstanding the provisions of any Act, every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board is for all purposes valid and binding upon the corporation of the municipality and the ratepayers thereof and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and every such debenture shall not be contested or questioned in any manner. R.S.O. 1970, c. 323, s. 61.

Validity of  
certified  
debentures

Scope of  
Board  
inquiry

**62.** The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient. R.S.O. 1970, c. 323, s. 62.

When  
electors'  
assent may  
be dispensed  
with

**63.**—(1) Where under any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incurring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act.

Public  
hearing

(2) Except as provided in subsections (3), (4) and (5), the Board before making any order under subsection (1) shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the matter and of hearing any objections that any person may desire to bring to the attention of the Board.

Notice to  
provide for  
filing of  
objections

(3) The Board may direct that the notice to be given shall state that anyone objecting to dispensing with the assent of the electors may, within such time from the giving of the notice as may be prescribed by the Board, file with the clerk of the municipality or, in the case of a local board, with the secretary of the local board his objection to dispensing with the assent of the electors.

Where no  
objections

(4) Where notice has been given under subsection (3), the Board may, when no notice of objection has been filed within the time specified in the notice, dispense with the assent of the electors without holding a public hearing.

Where  
objections  
filed

(5) If one or more objections have been filed within the time specified in the notice, the Board shall hold a public

hearing unless, under all the circumstances affecting the matter, the Board considers the objection or, if more than one, all the objections to be insufficient to require a public hearing.

(6) Notwithstanding subsection (2), where the Board has approved an expenditure for any purpose, it may, without holding a public hearing, dispense with the assent of the electors of a municipality or of those qualified to vote on money by-laws and approve additional expenditures for the same purpose not in excess of 25 per cent of the original expenditure approved.

Public hearing not required where additional expenditure approved

(7) The Board in making any order under subsection (1) dispensing with the necessity for obtaining the assent of the electors or qualified electors may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as to the Board may appear requisite or expedient. R.S.O. 1970, c. 323, s. 63.

Conditions in dispensing with vote

**64.**—(1) Notwithstanding the provisions of any general or special Act, a municipality shall not,

Where approval of Board required for undertaking, etc.

(a) authorize; or

(b) exercise any of its powers to proceed with; or

(c) provide any moneys for,

any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is to be,

(d) raised in a subsequent year or years; or

(e) provided by the issue of debentures,

until the approval of the Board has first been obtained.

(2) The approval of the Board mentioned in subsection (1) means and, notwithstanding the decision of any court, shall be deemed always to have meant the approval of the undertaking, work, project, scheme, act, matter or thing mentioned in subsection (1).

Approval of Board

Application  
of section

(3) Subsection (1) does not apply,

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(a) to incurring a debt payable within the term for which the council was elected or to the exercise of powers to proceed with any of the undertakings, works, projects, schemes, acts, matters or things referred to in subsection 149 (2) of the *Municipal Act*, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality; or

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(b) to the appointment of an engineer, land surveyor or commissioner under the *Drainage Act*.

By-law  
passed not  
to be in  
contraven-  
tion of  
subs. (1)  
or s. 65

(4) The passing of a by-law by a council to authorize or to exercise any of its powers to proceed with, or to provide any money for, any undertaking, work, project, scheme, act, matter or thing referred to in subsection (1) shall not be deemed to be in contravention of subsection (1) or of section 65 if such by-law contains a provision to the effect that the by-law shall not take effect until the approval of the Board under subsection (1) has been obtained.

Application  
of section to  
municipal  
guarantees

(5) This section applies to the guarantee by a municipality of the debentures, bonds or other securities of any other municipality or of any other person or corporation whatsoever, or of payment of the whole or any part of the sinking fund, or principal of or interest on any such debentures, bonds or other securities, and no guarantee thereof shall be made or entered into, or by-law in that behalf be passed, by any municipality under the provisions of any general or special Act, or of any agreement entered into pursuant thereto, or by-law passed thereunder, until the approval of the Board has first been obtained.

Interpre-  
tation

(6) Notwithstanding section 1, "municipality" in this section and in section 65 includes a public school board, secondary school board and a board of education and includes only such other local boards that may apply to the council in order that moneys necessary for any purpose mentioned in this section be provided by the issue of debentures of the corporation of the municipality.

Interpre-  
tation

(7) In subsection (8), "work" includes any undertaking, work, project, scheme, act, matter or thing proposed to be done or undertaken by a municipality.

Application  
for approval  
of class  
of work

(8) An application may be made by a municipality for approval by the Board of expenditures and the borrowing of money and the issuing of debentures and, where necessary,



for an order dispensing with a vote of the electors under section 63 for a class or classes of work without specifying any particular work, and the Board may dismiss the application or may approve part of all thereof, provided that the municipality shall not make any commitment for or do any act to commence any work to be financed under an order of the Board made on such application until the municipal treasurer has certified that funds can be provided under such order in payment thereof.

(9) The approval of the Board provided for in subsection <sup>Approval</sup> (8) shall be deemed to be the approval of the Board required under subsection (1). R.S.O. 1970, c. 323, s. 64.

**65.** No by-law shall be passed by a municipality for any <sup>Approval of by-laws</sup> of the purposes mentioned in section 64 until the approval of the Board has first been obtained. R.S.O. 1970, c. 323, s. 65.

**66.** Upon an application being made to the Board for the <sup>Inquiry by the Board</sup> approval required by section 64, the Board shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 62, and may hold such public hearings as to the Board may appear necessary. R.S.O. 1970, c. 323, s. 66.

**67.** The Board as a condition of giving its approval as <sup>Board may impose conditions on giving approval</sup> required by section 64 may by its order impose such restrictions, limitations and conditions upon the municipality with respect to the matter before the Board or with respect to the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality, and otherwise with respect to the conduct and administration of the affairs of the municipality, as to the Board may appear necessary or expedient. R.S.O. 1970, c. 323, s. 67.

**68.** The Board is not required to give its approval on <sup>Board not required to approve</sup> any application made to it under section 64, and shall not give such approval unless satisfied that the same is justified under all circumstances. R.S.O. 1970, c. 323, s. 68.

**69.** When the Board has given its approval as required <sup>Municipality may proceed upon approval</sup> by section 64, the municipality may thereafter proceed in the manner and to the extent provided for by or consequent upon such approval, and for such purposes may exercise all its powers and do all things necessary or incidental thereto, and may pass all requisite by-laws, including debenture by-laws. R.S.O. 1970, c. 323, s. 69.

## PART V

## RAILWAY AND UTILITIES JURISDICTION

Jurisdiction  
of Board:

**70.** The Board has jurisdiction and power,

railway  
and utility  
matters

(a) to inquire into, hear and determine any applications made, proceedings instituted and matters brought before it under the provisions of any general or special Act relating to railways or public utilities or any of them where by such Act any jurisdiction or power is for such purpose conferred on the Board;

complaints  
of breach of  
railway or  
utility  
statutes,  
orders,  
agreements,  
etc.

(b) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening or failure to comply on the part of any person, firm, company, corporation or municipality of or with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation;

railway  
and public  
utility rates  
and tolls

(c) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust. R.S.O. 1970, c. 323, s. 70.

Jurisdiction  
over  
receivers,  
liquidators,  
etc., of  
railway or  
public  
utility

**71.** The fact that a manager or other official or the liquidator or receiver of a railway or public utility is managing or operating or liquidating it under the authority of any court is not a bar to the exercise by the Board of any jurisdiction or power conferred by this or any other general or special Act, and every such manager, official, liquidator or receiver is bound to manage, operate or liquidate such railway or public utility in accordance with this Act and under the orders and directions of the Board, whether general or referring particularly to such railway or public utility, and he and every person acting under him shall obey all orders and directions of the Board with respect to such railway or public utility and be subject to have them enforced against him by the Board, notwithstanding his authority or any order of the court under which he is appointed or acts. R.S.O. 1970, c. 323, s. 71.

**72.—(1)** Wherever,

Powers, etc.,  
transferred  
to Board

- (a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;
- (b) by any Act of the Legislature the location of any line of railway or the route and course thereof, or the maps, plans and specifications, or any part of the equipment are subject to the approval of the Lieutenant Governor in Council or of any of his Ministers,

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(2) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. R.S.O. 1970, c. 323, s. 72. Furnishing  
information

**73.** The decision of the Board as to whether any person, firm, company, corporation or municipality is or is not a party interested within the meaning of any of the provisions of this Part is binding and conclusive upon such persons, firms, companies, corporations or municipalities. R.S.O. 1970, c. 323, s. 73. Who is  
a "party  
interested"

**74.—(1)** The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways and public utilities that are operated by or under the control of a municipality or a local board, and may require from it such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper. Super-  
intending  
accounts of  
railways  
and public  
utilities  
operated  
by municipa-  
lities

(2) The Board may from time to time require and report as to whether such railway or public utility is operated in such a way that the rates charged in respect thereof are Inquiry  
and report  
as to rates  
charged by  
public  
utilities

sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception

(3) This section does not apply to a public utility for the development or distribution of electrical power or energy obtained directly or indirectly from Ontario Hydro. R.S.O. 1970, c. 323, s. 74; 1973, c. 57, s. 19.

## PART VI

### PRACTICE AND PROCEDURE

#### NOTICES AND EVIDENCE

Notice,  
requisites

**75.** Any notice required or authorized to be given in writing,

- (a) by the Board, may be signed by the chairman, a vice-chairman, or the secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S.O. 1970, c. 323, s. 75.

Notices,  
how served

**76.—(1)** Any notice required to be given to a company, municipality, corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the notice, or a copy thereof, within the time, if any, limited therefor,

railway  
company

- (a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

muni-  
cipality

- (b) in the case of a municipality, to the head of the municipality, or to the clerk;



(c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office; other companies

(d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and co-partnership or firm

(e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or at his office or place of business, to a clerk in his employ. individuals

(2) If, in any case within the jurisdiction of the Board, it is made to appear to the satisfaction of the Board that service of any such notice cannot conveniently be made in the manner provided in subsection (1), the Board may order and allow such service to be made in such manner as the Board directs, and such publication in each case shall be deemed to be equivalent to service in the manner provided in subsection (1). Service by publication

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. R.S.O. 1970, c. 323, s. 76. Service of other documents

**77.** Every company, municipality or corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties that are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. R.S.O. 1970, c. 323, s. 77. Duty of company on receipt of notice or order

**78.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sitting of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. R.S.O. 1970, c. 323, s. 78. Duty of sheriffs, etc.

**79.** Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company Effect of documents issued by company

for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of the document by the company, and of the contents thereof, without any further proof than the mere production of the document. R.S.O. 1970, c. 323, s. 79.

Evidence of documents

**80.**—(1) Every document purporting to be signed by a member of the Board or the secretary or a signing officer of the Board, or by an inspecting engineer, is, without proof of the signature, *prima facie* evidence that the document was duly signed, and is sufficient notice to the company and all parties interested, if served in the manner provided by section 76 for service of notice, that the document was duly signed and issued by the Board, or inspecting engineer, as the case may be.

Evidence of regulations, etc.

(2) If the document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it is *prima facie* evidence of the regulation, order, direction, decision or report, and, when served in the manner provided by section 76, is sufficient notice of the regulation, order, direction, decision or report from the time of such service. R.S.O. 1970, c. 323, s. 80.

Certified plan, etc., *prima facie* evidence

**81.**—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, is, without proof of signature of the secretary, *prima facie* evidence of the original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was so deposited, that the same was deposited at the time so stated.

Certified copies of documents of Board

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, is *prima facie* evidence of the regulation, order or document, without proof of the signature of the secretary. R.S.O. 1970, c. 323, s. 81.

Publication of regulations, orders, etc.

**82.** Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in *The Ontario Gazette*, and while the same remains in force, has the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S.O. 1970, c. 323, s. 82.

**83.** Unless otherwise provided, ten days notice of any application to the Board, or of any hearing by the Board, is sufficient, but the Board may in any case direct longer or permit shorter notice of the application. R.S.O. 1970, c. 323, s. 83. Notice of application

**84.**—(1) When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties, and such order or decision is as valid and shall take effect in all respects as if made on due notice. Procedure in urgent cases when no notice given

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of the order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind the order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind the order or decision, or dismiss the application, as may seem to it just. R.S.O. 1970, c. 323, s. 84. When rehearing in such cases may be had

#### ORDERS OF COURT

**85.**—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and thereupon becomes and is enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may nevertheless be rescinded or varied by the Board. Enforcement of orders

(2) It is optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. R.S.O. 1970, c. 323, s. 85. Board may select method of enforcing order

#### TERMS OF ORDERS

**86.**—(1) The Board may direct in any order that the order, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose. Contingent orders

upon any party interested, and the Board may direct that the whole, or any portion of the order, shall have force for a limited time, or until the happening of any specified event.

Interim  
orders

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. R.S.O. 1970, c. 323, s. 86.

May grant  
partial or  
other relief  
than that  
applied for

**87.** Upon any application to the Board, the Board may make an order granting the whole, or part only, of the application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may appear just and proper as fully in all respects as if the application had been for such partial, other, or further relief. R.S.O. 1970, c. 323, s. 87.

Interim  
*ex parte*  
orders

**88.** The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may consider necessary to enable the matter to be heard and determined. R.S.O. 1970, c. 323, s. 88.

Extension  
of time  
specified in  
order

**89.** When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case in its opinion so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. R.S.O. 1970, c. 323, s. 89.

#### GENERAL RULES

Power to  
make rules

**90.** The Board may make general rules regulating its practice and procedure. R.S.O. 1970, c. 323, s. 90.

#### OTHER PROVISIONS

Presump-  
tion of juris-  
diction to  
make order

**91.** An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make the order. R.S.O. 1970, c. 323, s. 91.

Effect of  
finding of  
fact in  
another  
court

**92.—(1)** In determining any question of fact, the Board is not concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the



determination of such fact, but such finding or judgment is, in proceedings before the board, *prima facie* evidence only.

(2) Except as otherwise provided in this Act, the pendency of any action, prosecution or proceeding in any other court involving questions of fact does not deprive the Board of jurisdiction to hear and determine the same questions of fact. Jurisdiction not affected

(3) The finding or determination of the Board upon any question of fact within its jurisdiction is binding and conclusive. Effect of finding of fact R.S.O. 1970, c. 323, s. 92.

**93.**—(1) The Board may, at the request of the Lieutenant Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Board, is a question of law. Stating case for opinion of Divisional Court

(2) The Divisional Court shall hear and determine the stated case and remit it to the Board with the opinion of the court thereon. Action thereon R.S.O. 1970, c. 323, s. 93.

**94.**—(1) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within twenty-eight days after the date of any order or decision of the Board, the Lieutenant Governor in Council may, L. G. in C. may confirm, vary or rescind orders

(a) confirm, vary or rescind the whole or any part of such order or decision; or

(b) require the Board to hold a new public hearing of the whole or any part of the application to the Board upon which such order or decision of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this section.

(2) Any party or person who has filed a petition under subsection (1) may at any time withdraw the petition by filing a notice of withdrawal with the Clerk of the Executive Council. Withdrawal of petition R.S.O. 1970, c. 323, s. 94.

**95.**—(1) Subject to the provisions of Part IV, an appeal lies from the Board to the Divisional Court upon a question of jurisdiction or upon any question of law, but such appeal does not lie unless leave to appeal is obtained from the court within one

month after the making of the order or decision sought to be appealed from or within such further time as the court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

Notice  
of appeal

(2) Upon such leave being obtained, the Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down, and the appeal shall be heard by such court as speedily as practicable.

Opinion  
of court

(3) On the hearing of any appeal, the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

Board may  
be heard by  
counsel

(4) The Board is entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Members of  
Board not  
liable for  
costs

(5) Neither the Board nor any member of the Board is in any case liable to any costs by reason or in respect of any appeal or application under this section.

Decisions of  
Board to be  
final

(6) Save as provided in this section and in sections 42 and 94,

(a) every decision or order of the Board is final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1970, c. 323, s. 95.

Costs

**96.**—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such <sup>Scale</sup> costs shall be taxed. R.S.O. 1970, c. 323, s. 96.

**97.** Every person summoned to attend before the Board <sup>Witness</sup> or before any inspecting engineer, or person appointed to <sup>fees</sup> make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1970, c. 323, s. 97.

**98.**—(1) The Board may charge and collect such fees <sup>Fees</sup> as to it may seem proper for all copies of documents, <sup>for copies,</sup> maps or plans, and all certificates as to the same. <sup>certificates,</sup> <sup>etc.</sup>

(2) All fees charged and collected by the Board shall be <sup>Payment</sup> paid over quarterly, accompanied by a detailed statement <sup>over to</sup> thereof, to the Treasurer of Ontario. R.S.O. 1970, c. 323, <sup>Province</sup> s. 98.

**99.**—(1) The Board may, with the approval of the <sup>Fees</sup> Lieutenant Governor in Council, make regulations requiring fees to be paid to the Board in connection with its proceedings and prescribing the amounts thereof.

(2) The Board may from time to time waive or remit in <sup>Where fees</sup> appropriate circumstances all or any portion of such fees. <sup>may be</sup> 1972, c. 110, s. 2. <sup>waived or</sup> <sup>remitted</sup>

## PART VII

### MISCELLANEOUS

#### ANNUAL REPORT OF BOARD

**100.** The Board shall, after the close of each calendar <sup>Annual</sup> year, make an annual report upon the affairs of the Board <sup>report</sup> to the Attorney General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 11 (2).

**101.** If any officer or servant of the Board, or any person <sup>Publishing</sup> having access to or knowledge of any return made to the <sup>information</sup> Board or of any evidence taken by the Board in connection <sup>without</sup> therewith, without the authority of the Board first obtained, <sup>leave</sup> publishes or makes known any information, having obtained

the same or knowing the same to have been derived from such return or evidence, he is guilty of an offence and on conviction is liable to a fine of not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1970, c. 323, s. 101.

Powers of  
Ontario  
Hydro  
R.S.O. 1980,  
c. 384

**102.** Nothing in this Act confers upon the Board any jurisdiction as to matters that, under the *Power Corporation Act*, are within the exclusive jurisdiction of Ontario Hydro. R.S.O. 1970, c. 323, s. 102; 1973, c. 57, s. 19.



## CHAPTER 348

Ontario Municipal Employees  
Retirement System Act

## 1. In this Act,

Interpre-  
tation

- (a) “approved pension plan” means a pension plan that has been established by a municipality or local board under any general or special Act;
- (b) “benefit” means a pension, refund or other payment that may be payable in accordance with the regulations to or with respect to a member;
- (c) “Board” means the Ontario Municipal Employees Retirement Board;
- (d) “councillor” means a person who is a member of a council of a municipality;
- (e) “earnings”, in the case of an employee who is a member, means the salary or wages paid to him by an employer including the value of any perquisites received from an employer and, in the case of a councillor who is a member, means any moneys paid to him for his services as a councillor under the *Municipal Act* or under any Act establishing a metropolitan, regional or district municipality; R.S.O. 1980, c. 302
- (f) “employee” means any person who is employed by an employer, but does not include any person who contributes to a pension plan under the *Public Service Superannuation Act* or the *Teachers’ Superannuation Act*; R.S.O. 1980, cc. 419, 494
- (g) “employer” means a municipality or local board or an association of municipalities or local boards or of their officials or employees designated by the Lieutenant Governor in Council as an employer under this Act or the Province of Ontario in respect of a member who is not eligible to contribute under the *Public Service Superannuation Act* or the *Teachers’ Superannuation Act*;
- (h) “Fund” means the Ontario Municipal Employees Retirement Fund;

R.S.O. 1980,  
c. 303

- (i) “local board” means a local board as defined in the *Municipal Affairs Act*, excluding a hospital board established under any general or special Act that operates a public hospital on behalf of a municipality, and includes an agency of the Crown designated by the Lieutenant Governor in Council and the Board;
- (j) “member” means a person who has become a member of the System;
- (k) “Minister” means the Treasurer of Ontario and Minister of Economics;
- (l) “municipality” includes a metropolitan, regional and district municipality;
- (m) “optional service” means,
  - (i) service with any municipality or local board in Canada,
  - (ii) service with the civil service of Canada or of any province of Canada,
  - (iii) service with the staff of any board, commission or public institution established under any Act of Canada or any province of Canada, or
  - (iv) war service;
- (n) “pension” means an amount that is payable at periodic intervals in accordance with the regulations;
- (o) “prior service” means the service of an employee or councillor before the date upon which this Act and the regulations become applicable to the employer;
- (p) “regulations” means the regulations made under this Act;
- (q) “service” means service rendered to an employer by an employee or councillor, as the case may be, for which earnings are received and, for purposes of supplementary benefits, may include optional service;
- (r) “supplementary benefit” means a benefit in addition to the benefit to which a member or the widow,

widower, child, beneficiary or estate of the member is entitled by reason of his membership in the System;

(s) "System" means the Ontario Municipal Employees Retirement System;

(t) "war service" means active service during World War II or the Korean War,

(i) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine, or

(ii) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

providing satisfactory proof of such service is produced;

(u) "widow" or "widower" includes a woman or a man who,

(i) establishes to the satisfaction of the Board that she or he had, for a period of not less than seven years immediately prior to the death of a member with whom she or he had been residing and with whom by law, she or he was prohibited from marrying by reason of a previous marriage either of the member or of herself or himself to another person, been maintained and publicly represented by the member as her husband or his wife, or

(ii) establishes to the satisfaction of the Board that she or he had, for a number of years immediately prior to the death of a member with whom she or he had been residing, been maintained and publicly represented by the member as her husband or his wife, and that at the time of the death of the member, neither she or he nor the member was married to any other person. 1972, c. 102 s. 1; 1973, c. 159, s. 1; 1976, c. 27, s. 1.

2. For the purposes of this Act, a woman or a man who has established to the satisfaction of the Board that

When  
common-law  
wife deemed  
married to  
member

she or he is a widow or widower under subclause 1 (u) (i) or (ii) shall, if the Board so directs, be deemed to have become married to the member at such time as she or he commenced being represented by him or her as his wife or her husband and a woman or man who could establish that she or he is a widow or widower under subclause 1 (u) (i) or (ii) but for her or his marriage to a member after such time as she or he commenced being represented by him or her as his wife or her husband shall, if the Board so directs, be deemed to have become married to the member at the time when, in fact, she or he commenced being so represented. 1972, c. 102, s. 2; 1973, c. 159, s. 2.

System continued

3. The system known as the Ontario Municipal Employees Retirement System is continued. R.S.O. 1970, c. 324, s. 2.

Board continued

4.—(1) The Ontario Municipal Employees Retirement Board is continued as a corporation, and the management and administration of the System are vested in the Board.

Remuneration of members of Board

(2) The remuneration of the members of the Board shall be as recommended by the Board and approved by the Minister. R.S.O. 1970, c. 324, s. 3 (1, 2).

Appointment of officers and employees

(3) The Board shall appoint or cause to be appointed such officers, employees, legally qualified medical practitioners and advisers as are necessary to carry out the responsibilities of the Board and shall appoint an auditor and an actuary and determine the remuneration of all such persons.

Investment policy committee

(4) The Board may appoint an investment policy committee that shall be composed of members of the Board, officers of the Board and other persons with senior investment or other financial management experience and determine their remuneration and may delegate to the committee, subject to any restrictions which may be imposed by the Board, the power to invest the portion of the Fund mentioned in subsection 8 (5).

Quorum

(5) The investment policy committee may fix its quorum, which shall be not less than a majority of its members.

Officers

(6) The investment policy committee, with the approval of the Board, may, in accordance with policies established by the committee, assign to an officer or officers of the Board such of its duties as it decides are necessary or desirable.

Rules and regulations

(7) The Board may make rules and regulations for the management and administration of the System and



may assign to the persons mentioned in subsection (3) such of its duties as it decides are necessary or desirable. 1974, c. 102, s. 1.

(8) The Board shall, after the close of each fiscal year, make a report upon its affairs during the preceding year to the Minister, and every such report shall contain a financial statement certified by the auditor, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session, or, if not, at the next ensuing session. R.S.O. 1970, c. 324, s. 3 (6). <sup>Annual report</sup>

5.—(1) The Ontario Municipal Employees Retirement Fund is continued for the payment of pension benefits to members, their widows, widowers and children, in accordance with the regulations. R.S.O. 1970, c. 324, s. 4 (1); 1972, c. 102, s. 3. <sup>Fund continued</sup>

(2) The Fund shall include the cash, investments and other assets and the liabilities and the reserves of the Board. R.S.O. 1970, c. 324, s. 4 (2). <sup>What Fund to include</sup>

(3) The contributions of the employers and of the members, the income from investments plus profits less losses on the sale of investments and any other credits of the Board shall be deposited in the Fund. R.S.O. 1970, c. 324, s. 4 (3); 1974, c. 102, s. 2. <sup>Deposits in Fund</sup>

(4) The benefits and the expenses of the Board shall be paid out of the Fund. R.S.O. 1970, c. 324, s. 4 (4). <sup>Payments out of Fund</sup>

6. The auditor appointed by the Board shall audit the transactions of the Board and shall make a report to the Board on the annual financial statement of the Fund and shall state in his report whether in his opinion the annual financial statement presents fairly the financial position of the Fund and the results of its operation for the year. R.S.O. 1970, c. 324, s. 5. <sup>Auditor</sup>

7.—(1) The actuary appointed by the Board shall make an actuarial study and valuation of the assets and liabilities of the Fund as required by the Board, but not less frequently than at three-year intervals, and shall report thereon to the Board and shall make such recommendations to the Board as he considers advisable for the proper management and administration of the System. <sup>Actuarial valuation</sup>

(2) The report to the Board shall include a statement of the actuarial assumptions used by the actuary in the prepar- <sup>Idem</sup>

ation of the valuation mentioned in subsection (1). R.S.O. 1970, c. 324, s. 6.

Issue of  
Ontario  
debentures

8.—(1) In each year to and including the year 1969, the Treasurer of Ontario shall issue Province of Ontario debentures to become due and payable on the 31st day of December, 1973 for the amount of money accumulated to the credit of the Fund from time to time and not required for current expenditures, and,

- (a) such debentures issued during the period commencing on the 18th day of April, 1962, and ending on the 31st day of December, 1967, shall bear interest at the rate of 5 per cent per annum payable half-yearly; and
- (b) such debentures issued during the period commencing on the 1st day of January, 1968, and ending on the 31st day of December, 1969, shall bear interest at the rate of  $6\frac{1}{2}$  per cent per annum payable half-yearly. R.S.O. 1970, c. 324, s. 7 (1).

1973 issue of  
debentures  
authorized

(2) On the 31st day of December, 1973, the Treasurer of Ontario shall issue a Province of Ontario debenture in respect of each year for which a debenture was issued under subsection (1) and the debenture to be issued in respect of the year,

- (a) 1963, shall be in the amount of \$4,400,000 and shall bear interest at the rate of 5.49 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1993;
- (b) 1964, shall be in the amount of \$10,700,000 and shall bear interest at the rate of 5.56 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1994;
- (c) 1965, shall be in the amount of \$14,100,000 and shall bear interest at the rate of 5.54 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1995;
- (d) 1966, shall be in the amount of \$20,100,000 and shall bear interest at the rate of 6.00 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1996;

- (e) 1967, shall be in the amount of \$24,900,000 and shall bear interest at the rate of 6.30 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1997;
- (f) 1968, shall be in the amount of \$33,100,000 and shall bear interest at the rate of 7.21 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1998; and
- (g) 1969, shall be in the amount of \$46,700,000 and shall bear interest at the rate of 8.19 per cent per annum payable half-yearly and shall become due and payable on the 31st day of December, 1999.

(3) On the 31st day of December, 1973, the Treasurer of Ontario shall pay to the Fund \$9,045,170 as an adjustment of the interest heretofore paid to the Fund on the Province of Ontario debentures issued under subsection (1). 1973, c. 159, s. 3.

Interest  
adjustment  
payment  
authorized

(4) Commencing in the year 1970, the Board shall pay over to the Treasurer of Ontario from time to time money accumulated to the credit of the Fund and not required for current expenditures for the year and the Treasurer shall issue to the Board at the end of each year a Province of Ontario debenture for the amount of such money, such debenture to bear interest payable half-yearly at a rate of interest not less than the weighted average yield to maturity of long term debentures and bonds issued or guaranteed by the Province in the Canadian capital market in such year and such debenture shall be for a term of not less than twenty years and not more than thirty years.

Debentures  
to be issued

(5) Notwithstanding subsection (4), commencing in the year 1975, all or a portion of the money accumulated to the credit of the Fund and not required for current expenditures, as shall be agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council, shall be retained by the Board.

Money  
retained  
by the  
Board

(6) The money retained by the Board under subsection (5) shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of the *Pension Benefits Act*, and, for the purposes of that Act, such part of the Fund shall be treated as a separate pension fund. 1979, c. 19, s. 1.

Money  
retained  
to be  
invested  
R.S.O. 1980,  
c. 373

(7) For the purposes of subsection (4), the weighted average yield to maturity of the debentures and bonds issued or

Yield and  
term of  
debenture

guaranteed by the Province in a calendar year and the term of the debenture to be issued to the Board shall be as agreed upon between the Treasurer of Ontario and the Board and approved by the Lieutenant Governor in Council.

Charge on  
Consolidated  
Revenue  
Fund

(8) The Province of Ontario debentures issued under this section are a charge upon the Consolidated Revenue Fund.

Province of  
Ontario  
debentures  
authorized  
to be  
delivered

(9) The Treasurer of Ontario shall deliver to the Board the Province of Ontario debentures as authorized in this section,

- (a) upon delivery to him of a cheque drawn on the Fund for the principal amount of the debentures plus any accrued interest thereon;
- (b) upon delivery to him of an equal amount of Province of Ontario debentures that were issued under the authority of this section; or
- (c) upon delivery of a cheque and Province of Ontario debentures that were issued under the authority of this section, the sum of which is equal to the amount of the Province of Ontario debentures to be delivered. R.S.O. 1970, c. 324, s. 7 (4-6).

Contribu-  
tions by  
employer

9.—(1) Notwithstanding any general or special Act, an employer shall not make a contribution for the provision of a pension to an employee unless the contribution is made,

R.S.C. 1970,  
c. C-5

- (a) under this Act or the *Canada Pension Plan*; or
- (b) under an approved pension plan in respect of an employee who became employed by the employer before the 1st day of July, 1965, provided that such plan was in effect on such day and the contribution is in respect of service of the employee before he becomes entitled to be a member under the regulations.

Where  
bargaining  
agreement

(2) If an employer is required to make contributions to an approved pension plan under the terms of a bargaining agreement with respect to any employees and to persons who may become employees, the date the agreement is terminated or the 1st day of July, 1968, whichever is earlier, shall be substituted for the 1st day of July, 1965, in subsection (1) as it applies to such employees or persons. R.S.O. 1970, c. 324, s. 8.

Contribu-  
tions of  
members

10. The contributions of the members shall be as prescribed in the regulations. R.S.O. 1970, c. 324, s. 9.



**11.** The contributions of the employers who participate in the System shall be such an amount as is required, in addition to the contributions of the members and the interest earned by the Fund, to provide for the payment of the benefits and the expenses under the regulations. R.S.O. 1970, c. 324, s. 10. Contributions of employers

**12.—**(1) The interest of a person in the Fund and in any benefit under this Act is not subject to garnishment, attachment, seizure or other process of law, and is not assignable. R.S.O. 1970, c. 324, s. 11. No attachments, etc.

(2) Subsection (1) does not apply to the garnishment, attachment or seizure of moneys payable out of the Fund in satisfaction of an order for support under the *Family Law Reform Act*. 1979, c. 19, s. 2. Application of subs. (1)  
R.S.O. 1980, c. 152

**13.** Any sum the payment of which has not been made by an employer as required in the regulations is a debt recoverable from the employer by the Board in a court of competent jurisdiction. R.S.O. 1970, c. 324, s. 12. Sum payable by employer recoverable

**14.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the composition of the Board and the appointment of the members of the Board;
- (b) governing the operation and administration of the Board including the powers and duties of the officers and employees of the Board;
- (c) governing the administration of the Fund including the receipt, deposit and payment of all moneys of the Fund, the receipt, safekeeping and delivery of securities of the Fund, the borrowing of such sums as are necessary and the procedures for the determination of benefits;
- (d) requiring participating employers to pay to the Fund the contributions of employers and members and to pay interest at a prescribed rate on amounts of contributions that are overdue and unpaid, and to furnish information to the Board;
- (e) authorizing the Board to accept securities or any class thereof from participating employers as a payment on account of contributions in respect of prior service, and to determine the price of the securities;

- (f) providing for the participation of employers and for the membership of employees and councillors in the System, and the terms and conditions upon which such participation and membership are permitted;
- (g) prescribing the rates of contributions of the members and the principles for the determination of the rates of contributions of the employers;
- (h) providing for and defining,
  - (i) a normal retirement pension,
  - (ii) a disability retirement pension,
  - (iii) a pension to the widow, widower or children,
  - (iv) a deferred pension,
  - (v) an early retirement pension,
  - (vi) a refund of the member's contributions, plus interest thereon,and prescribing the terms and conditions upon which such benefits shall be paid, and for giving such terms and conditions retroactive effect in cases considered appropriate;
- (i) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided;
- (j) providing for the transfer from or to the Fund of a pension entitlement;
- (k) prescribing the terms and conditions upon which pensions in respect of prior service may be provided;
- (l) prescribing the terms and conditions upon which pensions and increases in pensions for retired employees, their widows, widowers and children may be provided;
- (m) prescribing the duties of employers and of members with respect to the System;
- (n) prescribing the duties and liabilities of members and their employers with respect to contributions

and rights of members and employers under approved pension plans;

(o) prescribing the terms and conditions upon which members may accumulate pension benefits while absent from duty;

(p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 324, s. 13; 1972, c. 102, s. 4; 1974, c. 102, s. 4; 1976, c. 27, s. 2.

**15.**—(1) An employer may by by-law or resolution participate in the System and pay to the Fund the total of the employer and member contributions, and has all of the powers necessary and incidental thereto. R.S.O. 1970, c. 324, s. 14 (1); 1972, c. 102, s. 5 (1). Power of employer to participate in System

(2) Participation in the System by a municipality may be in respect of both councillors and employees or in respect of either of them. 1972, c. 102, s. 5 (2). Participation in System

**16.**—(1) The Board may, with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any pension plan or fund to which the other provisions of this Act do not apply and to recover the cost of such administration from such plan or fund. Administration of other plans or funds

(2) Money accumulated from time to time in a pension plan or fund mentioned in subsection (1), which is not required for the current expenditures of such plan or fund, may be deposited in the Fund. Money deposited in Fund

(3) The return to be credited by the Fund to a pension plan or fund mentioned in subsection (1) shall be as provided for in an agreement mentioned in subsection (1). 1974, c. 102, s. 5. Return credited by Fund





## CHAPTER 349

### Ontario Municipal Improvement Corporation Act

#### 1. In this Act,

Interpre-  
tation

- (a) "municipality" means a county, city, town, village, township or improvement district, and "municipal" has a corresponding meaning;
- (b) "school board" means a board as defined in paragraph 3 of subsection 1 (1) of the *Education Act*;
- (c) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 325, s. 1; 1972, c. 3, s. 17 (1); 1979, c. 100, s. 1.

R.S.O. 1980,  
c. 129

2.—(1) The Ontario Municipal Improvement Corporation, hereinafter called the Corporation, constituted on behalf of Her Majesty in right of Ontario as a body corporate and politic, without share capital, is continued.

Corporation  
continued

(2) The Corporation shall be composed of not fewer than three and not more than five members appointed by the Lieutenant Governor in Council.

Membership

(3) The *Corporations Act* does not apply to the Corporation.

Application  
of R.S.O.  
1980, c. 95

(4) The members for the time being of the Corporation shall form and be its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board.

Board of  
directors

(5) Subject to the regulations, the affairs of the Corporation are under the management and control of the board of directors and in the absence of the chairman, or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

Manage-  
ment

(6) In the administration of the affairs of the Corporation, the board of directors shall be assisted by such officers and other employees in the public service of Ontario as the Treasurer may assign for the purpose.

Adminis-  
tration

## Remuneration

(7) The Corporation may pay such of its members as are not officers in the public service of Ontario such remuneration and expense allowance as are from time to time fixed by the Lieutenant Governor in Council.

## Quorum

(8) A majority of the directors for the time being constitutes a quorum at meetings of the board of directors. R.S.O. 1970, c. 325, s. 2.

## Objects

**3.**—(1) The objects of the Corporation are,

(a) to purchase from any municipality in Ontario having a population less than 20,000 debentures issued by it for any municipal purpose;

(b) to purchase from any municipality in Ontario having a population of 20,000 or more debentures issued by it for any of the following municipal works and undertakings:

1. Water works and water supply distribution systems.

2. Sewage works, treatment works, sewer systems or sewers, as defined in section 218 of the *Municipal Act*.

3. Plants and works for the incineration of garbage, refuse and waste.

4. Drainage works under the *Drainage Act*;

(c) to purchase from any municipality in Ontario, including a metropolitan, regional or district municipality, having a population of 100,000 or more, debentures issued by it for the erection or alteration of stadia; and

(d) to purchase from any municipality in Ontario, including a metropolitan, regional or district municipality or from any school board, debentures issued by it for school board undertakings. R.S.O. 1970, c. 325, s. 3 (1); 1974, c. 77, s. 1; 1979, c. 100, s. 2.

R.S.O. 1980,  
c. 302

R.S.O. 1980,  
c. 126

## Determination of population

(2) The Corporation shall determine the population of a municipality for the purpose of subsection (1) as of the business day next preceding the day on which the Lieutenant Governor in Council approves the purchase of debentures under subsection 9 (1), and such determination is final. R.S.O. 1970, c. 325, s. 3 (2).

4.—(1) Subject to the approval of the Lieutenant Governor in Council and to section 14, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation considers requisite for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways:

Borrowing  
powers

- (a) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine; and
- (b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Corporation may determine.

(2) The purposes of the Corporation, without limiting the generality thereof, include,

Purposes of  
Corporation

- (a) the carrying out of the objects of the Corporation mentioned in section 3;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer in respect of any advances; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Sale, etc.,  
of Cor-  
poration's  
securities

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for

Authoriza-  
tion

the purposes of the Corporation in the amount authorized is conclusive evidence to that effect.

Sealing,  
signing,  
etc.

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation.

Mechanical  
reproduction  
of seal and  
signature  
authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. R.S.O. 1970, c. 325, s. 4.

Securities of  
Corporation  
redeemable  
in advance

5. Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation may determine at the time of the issue thereof. R.S.O. 1970, c. 325, s. 5.

Lost  
debentures

6. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board may require. R.S.O. 1970, c. 325, s. 6.

Guarantee  
of payment  
by Province

7.—(1) The Lieutenant Governor in Council may authorize the Treasurer to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guaranteed  
debentures,  
etc., to be  
indefeasible

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province under this section, is valid and binding upon



the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 325, s. 7.

8. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O., 1970, c. 325, s. 8.

Trustees,  
etc., invest-  
ments in  
debentures

9.—(1) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations, may from time to time purchase,

Purchase of  
municipal or  
school board  
debentures

(a) from any municipality in Ontario in a category mentioned in section 3, debentures issued by the municipality for any of the purposes mentioned in section 3; and

(b) from any school board, debentures issued by it for school board undertakings.

(2) The Corporation shall not purchase any municipal or school board debentures under the authority of this Act until,

Approval and  
validation  
required

(a) the Ontario Municipal Board has issued its order under section 64 of the *Ontario Municipal Board Act* authorizing the municipality or school board to proceed with the work or undertaking with respect to which the debentures are required; and

R.S.O. 1980,  
c. 347

(b) the municipality or school board has had the debentures validated by the Ontario Municipal Board under sections 58 to 60 of the *Ontario Municipal Board Act*. 1979, c. 100, s. 3.

(3) The effective rate of interest at which the Corporation may purchase debentures shall be determined from time to time by the Lieutenant Governor in Council. R.S.O. 1970, c. 325, s. 9 (3).

Interest

10. Notwithstanding the *Public Utilities Act* or any other Act, every debenture of a municipality or school board purchased by the Corporation under the authority of this Act, with respect to payment of principal and interest thereon, ranks *pari passu* with all other debentures of that municipality or school board and the payment of principal and interest thereon. 1979, c. 100, s. 4.

Debentures  
to rank  
*pari passu*  
R.S.O. 1980,  
c. 423

11. The Corporation has power, with the approval of the Treasurer and subject to the regulations, to sell, hypothecate or otherwise dispose of any debentures purchased by the

Sale, etc.,  
of municipal  
debentures  
purchased by  
Corporation

Corporation under the authority of this Act. R.S.O. 1970, c. 325, s. 11.

## Audit

**12.** The books and accounts of the Corporation shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate and such auditor shall make an annual report of the audit to the Treasurer and the Treasurer shall table the report in the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 325, s. 12.

Sale of  
Corpora-  
tion's  
securities to  
Province and  
provincial  
advances to  
Corporation  
authorized

**13.**—(1) The Lieutenant Governor in Council may authorize the Treasurer,

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council considers expedient.

## Idem

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 325, s. 13.

Limit of  
borrowing  
powers

**14.**—(1) The Corporation shall not borrow or raise by way of loan any sums of money if, after giving effect to such borrowing or loan, the aggregate principal amount of the outstanding debentures, bills and notes issued by the Corporation, of temporary loans raised by the Corporation and of outstanding advances to the Corporation from the Treasurer, would exceed \$150,000,000.

Application  
of section

(2) This section does not apply to moneys borrowed or raised by way of loan for the purposes mentioned in clauses 4 (2) (b) and (c). R.S.O. 1970, c. 325, s. 14.

## Regulations

**15.** The Lieutenant Governor in Council may make regulations governing,

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the arrangements that the Corporation may make for purchase of debentures of municipalities or school boards and the purchase of such debentures;
- (c) the mode in which municipalities or school boards may apply to the Corporation for its purchase of their

debentures and the forms, records and proofs to be furnished with such applications;

- (d) the conditions to be imposed in regard to the purchase by the Corporation of debentures of municipalities or school boards;
- (e) the consideration and granting by the Corporation of applications for its purchase of debentures of municipalities or school boards;
- (f) the sale, hypothecation or other disposition by the Corporation of any debentures of municipalities or school boards purchased by the Corporation;
- (g) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 325, s. 15; 1979, c. 100, s. 5.

**16.** The Treasurer shall administer this Act and the regulations made under this Act. R.S.O. 1970, c. 325, s. 16.

Administra-  
tion of Act





## CHAPTER 350

Ontario New Home Warranties  
Plan Act

## 1. In this Act,

Interpre-  
tation

- (a) “builder” means a person who undertakes the performance of all the work and supply of all the materials necessary to construct a completed home whether for the purpose of sale by himself or under a contract with a vendor or owner;
- (b) “Corporation” means the corporation designated under section 2;
- (c) “guarantee fund” means the provision made by the Corporation for compensation under the Plan;
- (*d*) “home” means,
- (i) a self-contained one-family dwelling, detached or attached to one or more others by common wall,
  - (ii) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership,
  - (iii) a condominium dwelling unit, including the common elements, or
  - (iv) any other dwelling of a class prescribed by the regulations as a home to which this Act applies,

and includes any structure or appurtenance used in conjunction therewith, but does not include a dwelling built and sold for occupancy for temporary periods or for seasonal purposes;

- (e) "inspector" means an inspector appointed by the Corporation under section 18;
- (f) "Minister" means the Minister of Consumer and Commercial Relations;
- (g) "owner" means a person who first acquires a home from its vendor for occupancy, and his successors in title;
- (h) "Plan" means the Ontario New Home Warranties Plan referred to in section 11;
- (i) "prescribed" means prescribed by the regulations;
- (j) "Registrar" means the Registrar appointed by the Corporation under section 3;
- (k) "regulations" means the by-laws of the Corporation made under section 23;
- (l) "sell" includes entering into an agreement to sell;
- (m) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*;
- (n) "vendor" means a person who sells on his own behalf a home not previously occupied to an owner and includes a builder who constructs a home under a contract with the owner;
- (o) "warranty" means a warranty set out in section 13. 1976, c. 52, s. 1.

R.S.O. 1980,  
c. 274

Designation  
of  
Corporation  
R.S.O. 1980,  
c. 95

**2.—(1)** The Lieutenant Governor in Council shall designate a non-profit corporation incorporated without share capital under the *Corporations Act* to be the Corporation for the purposes of this Act.

Objects

(2) Upon its designation, the objects of the Corporation are extended to include,

- (a) the administration of the Ontario New Home Warranties Plan;
- (b) the establishment and administration of a guarantee fund providing for the payment of compensation under section 14, whether by the establishment of a fund for the purpose or by contract with licensed insurers;

(c) assisting in the conciliation of disputes between vendors and owners; and

(d) engaging in undertakings for the purpose of improving communications between vendors and owners.

(3) The *Insurance Act* does not apply to the Corporation and its undertakings in respect of any matter within its objects or authorized by this Act. 1976, c. 52, s. 2.

Application  
of  
R.S.O. 1980,  
c. 218

3. The Corporation shall appoint a Registrar who shall perform the duties and exercise the powers given to him by this Act and the regulations under the supervision of the Corporation and shall perform such other duties as are assigned to him by the Corporation. 1976, c. 52, s. 3.

Registrar

4. All moneys payable under this Act to the Corporation shall be retained by the Corporation and applied to defray the expenses incurred and expenditures made in the carrying out of its duties under this Act and otherwise for the purposes of its objects set out in subsection 2 (2). 1976, c. 52, s. 4.

Revenues  
and  
expenses

5. The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1976, c. 52, s. 5.

Annual  
reports

6. No person shall act as a vendor or a builder unless he is registered by the Registrar under this Act. 1976, c. 52, s. 6.

Registration  
required

7.—(1) An applicant is entitled to registration by the Registrar except where,

Registration  
of vendors  
and builders

(a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his undertakings;

(b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on his undertakings in accordance with law and with integrity and honesty;

(c) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be finan-

cially responsible in the conduct of its undertakings, or

- (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its undertakings will not be carried on in accordance with law and with integrity and honesty; or

(d) in the case of an application for registration as a builder, the applicant does not have sufficient technical competence to consistently perform the warranties.

Conditions  
of regis-  
tration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant or imposed by the Tribunal or prescribed by the regulations.

Registration  
not trans-  
ferable

(3) A registration is not transferable. 1976, c. 52, s. 7.

Refusal to  
register

8.—(1) Subject to section 9, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 7.

Revocation  
and refusal  
to renew

(2) Subject to section 9, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 7, if he were an applicant, or where the registrant has a record of breaches of warranties or of failure or unwillingness to complete performance of contracts or is in breach of a term or condition of the registration. 1976, c. 52, s. 8.

Notice of  
proposal to  
refuse or  
revoke

9.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice  
requiring  
hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

Powers of  
Registrar  
where no  
hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of  
Tribunal

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal



shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act. Conditions of order

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. Voluntary cancellation

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue, Continuance pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1976, c. 52, s. 9. Order effective, stay  
R.S.O. 1980, c. 274

**10.** A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1976, c. 52, s. 10. Further applications

**11.—**(1) The Ontario New Home Warranties Plan is continued comprised of the warranties and the guarantee fund and compensation provided for by this Act. Ontario New Home Warranties Plan

(2) When a vendor enters into a contract for the sale Disclosures on entering into contract

of a home to an owner or for the construction of a home for an owner, the vendor shall deliver to the owner such documentation and notices respecting the Plan as are prescribed by the regulations. 1976, c. 52, s. 11.

Notice of  
commencing  
construction

**12.** A builder shall not commence to construct a home until he has notified the Corporation of the fact, has provided the Corporation with such particulars as the Corporation requires and has paid the prescribed fee to the Corporation. 1976, c. 52, s. 12.

Warranties

**13.—(1)** Every vendor of a home warrants to the owner,

(a) that the home,

(i) is constructed in a workmanlike manner and is free from defects in material,

(ii) is fit for habitation, and

(iii) is constructed in accordance with the Ontario Building Code;

(b) that the home is free of major structural defects as defined by the regulations; and

(c) such other warranties as are prescribed by the regulations.

Exclusions

(2) A warranty under subsection (1) does not apply in respect of,

(a) defects in materials, design and workmanship supplied by the owner;

(b) secondary damage caused by defects, such as property damage and personal injury;

(c) normal wear and tear;

(d) normal shrinkage of materials caused by drying after construction;

(e) damage caused by dampness or condensation due to failure by the owner to maintain adequate ventilation;

(f) damage resulting from improper maintenance;

(g) alterations, deletions or additions made by the owner;

(h) subsidence of the land around the building or along utility lines, other than subsidence beneath the footings of the building;

(i) damage resulting from an act of God;

(j) damage caused by insects and rodents, except where construction is in contravention of the Ontario Building Code;

(k) damage caused by municipal services or other utilities;

(l) surface defects in workmanship and materials specified and accepted in writing by the owner at the date of possession.

(3) The vendor of a home shall deliver to the owner a certificate specifying the date upon which the home is completed for his possession and the warranties take effect from the date specified in the certificate.

Certificate  
of  
completion

(4) A warranty under subsection (1) applies only in respect of claims made thereunder within one year after the warranty takes effect, or such longer time under such conditions as are prescribed.

Term of  
warranty  
under  
subs. (1)

(5) A warranty is enforceable notwithstanding that there is no privity of contract between the owner and the vendor.

Privity of  
contract

(6) The warranties set out in subsection (1) apply notwithstanding any agreement or waiver to the contrary and are in addition to any other rights the owner may have and to any other warranty agreed upon. 1976, c. 52, s. 13.

Application  
of warranties

**14.—(1) Where,**

Compen-  
sation

(a) a person who has entered into a contract with a vendor for the provision of a home has a cause of action in damages against the vendor for financial loss resulting from the bankruptcy of the vendor or the vendor's failure to perform the contract;

(b) an owner has a cause of action against a vendor for damages resulting from a breach of warranty; or

(c) the owner suffers damage because of a major structural defect as defined in the regulations for the purposes of section 13, and the claim is made

within four years after the warranty expires or such longer time under such conditions as are prescribed,

the person or owner is entitled to be paid out of the guarantee fund the amount of such damage subject to such limits as are fixed by the regulations.

Other  
recovery

(2) In assessing damages, the Corporation shall take into consideration any benefit, compensation or indemnity payable to the person or owner from any source.

Performance

(3) The Corporation may perform or arrange for the performance of any work in lieu of or in mitigation of damages claimed under subsection (1). 1976, c. 52, s. 14.

Condomin-  
iums

**15.** For the purposes of sections 13 and 14, a condominium corporation shall be deemed to be the owner of the common elements of the condominium and the warranties take effect on the date of the registration of the declaration and description. 1976, c. 52, s. 15.

Notice of  
decision  
under s. 14

**16.**—(1) Where the Corporation makes a decision under section 14, it shall serve notice of the decision, together with written reasons therefor, on the person or owner affected.

Notice  
requiring  
hearing

(2) A notice under subsection (1) shall inform the person served that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Corporation and the Tribunal, and he may so require such a hearing.

Powers of  
Tribunal

(3) Where a person served requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers the Corporation ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Corporation.

Parties

(4) The Corporation, the person or owner who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. 1976, c. 52, s. 16.

Concili-  
ation of  
disputes

**17.**—(1) The Corporation may, upon the request of an owner, conciliate any dispute between the owner and a vendor.



(2) Where there is a dispute between a vendor and an owner arising out of the contract, neither party shall commence any proceeding in respect thereof until after fifteen days after the party notifies the Corporation of the dispute for the purpose of giving the Corporation an opportunity to effect conciliation.

(3) Each party to a dispute shall supply the Corporation with such particulars thereof as the Corporation requires.

*Idem*  
Information to Corporation

(4) Every agreement between a vendor and prospective owner shall be deemed to contain a written agreement to submit present or future differences to arbitration, subject to appeal to the Divisional Court, and the *Arbitrations Act* applies. 1976, c. 52, s. 17.

Arbitration

R.S.O. 1980,  
c. 25

**18.—**(1) The Corporation shall appoint inspectors for the purposes of this Act.

Inspectors

(2) An inspector may, for the purpose of inspecting a home during its construction, enter in or upon and inspect the premises constituting the site of the construction at any time without a warrant.

Power of entry

(3) For the purposes of an inspection, the inspector may,

Powers of inspector

(a) require the production of the drawings and specifications of a home or any part thereof, including any drawings prescribed by the regulations, for his inspection and may require information from any person concerning any matter related to a home or part thereof;

(b) be accompanied by any person who has special or expert knowledge of any matter in relation to a home or part thereof; and

(c) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, or inquiries as are necessary for the purposes of the inspection.

(4) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or performance of a duty under this Act. 1976, c. 52, s. 18.

Obstruction of inspectors

Restrain-  
ing order

**19.**—(1) Where it appears to the Corporation that any vendor or builder does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to a judge of the High Court for an order directing such person to comply with such provision and, upon the application, the judge may make the order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1976, c. 52, s. 19.

Service of  
notice

**20.** Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. 1976, c. 52, s. 20.

Certificate  
of evidence

**21.** A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Corporation; or
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the chairman of the board of directors of the Corporation is, without proof of the office or signature of the chairman, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1976, c. 52, s. 21.

Offences

**22.**—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations; or
- (b) contravenes section 6 or 12 or subsection 18 (4),

and every director or officer of a corporation who knowingly concurs in such furnishing or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1976, c. 52, s. 22. Corporation

**23.—**(1) The Corporation may make by-laws,

By-laws

- (a) governing applications for registration of vendors and builders and the expiration and renewal of registration;
- (b) subject to the approval of the Lieutenant Governor in Council, prescribing terms and conditions of registration;
- (c) requiring the payment of fees on applications for registration or renewal of registration and prescribing the amounts thereof;
- (d) prescribing the fees payable by builders to the Corporation in respect of the construction of a home or any class of home;
- (e) governing applications for and the issuance of certificates under subsection 13 (3);
- (f) governing agreements entered into between the Corporation and vendors;
- (g) providing for the establishment and maintenance of the guarantee fund and governing procedures for claiming and determining claims for compensation from the guarantee fund;
- (h) governing the procedures for conciliation of disputes and providing for the payment and refunding of fees respecting requests for conciliation;
- (i) prescribing classes of dwellings for the purposes of subclause 1 (d) (iv);
- (j) specifying warranties in addition to those provided for in clause 13 (1) (a) or (b) and the time of expiration thereof;

- (k) defining major structural defects for the purpose of clause 13 (1) (b);
- (l) requiring vendors and builders to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (m) subrogating the Corporation or a named insurer to any right of recovery of a person in respect of a claim paid out of the insurance under the Plan and costs and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled;
- (n) prescribing any matter required or authorized by this Act to be, or referred to in this Act as, prescribed by the regulations;
- (o) prescribing forms for the purposes of the Corporation.

Application  
of  
R.S.O. 1980,  
c. 446

(2) A by-law passed under subsection (1) shall be deemed to be a regulation to which the *Regulations Act* applies.

Act binds  
Crown

(3) This Act, except sections 6 to 10, binds the Crown.  
1976, c. 52, s. 23.



## CHAPTER 351

### Ontario Northland Transportation Commission Act

**1.** In this Act, "Commission" means the Ontario Northland Transportation Commission. R.S.O. 1970, c. 326, s. 1. Interpretation

**2.**—(1) The body corporate heretofore established under *The Temiskaming and Northern Ontario Railway Act* is continued and shall be known as the Ontario Northland Transportation Commission and shall be composed of one or more persons appointed by the Lieutenant Governor in Council. Commission, how composed 1902, c. 9

(2) A majority of the members of the Commission forms a quorum. Quorum

(3) The Lieutenant Governor in Council may authorize a seal for the Commission. Seal

(4) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction, and when so reproduced has the same force and effect as if manually affixed. R.S.O. 1970, c. 326, s. 2. Mechanical reproduction of seal

**3.** Each of the commissioners shall hold office during the pleasure of the Lieutenant Governor in Council, and the Lieutenant Governor in Council upon the death, resignation or removal from office of any commissioner may appoint another person to fill the vacancy thereby created. R.S.O. 1970, c. 326, s. 3. Tenure of office

**4.** Where the Commission is composed of more than one person, the Lieutenant Governor in Council may from time to time designate one of the commissioners to be chairman of the Commission and one of the commissioners to be vice-chairman of the Commission. R.S.O. 1970, c. 326, s. 4. Chairman, vice-chairman

**5.** The chairman and each of the commissioners shall receive his actual travelling expenses and other disbursements properly incurred in discharging his duties, and such salary or remuneration as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 326, s. 5. Travelling expenses and honorarium

**6.**—(1) The Lieutenant Governor in Council may appoint an industrial commissioner who shall be paid such salary or other remuneration by the Commission as may be determined Industrial commissioner, appointment

by the Lieutenant Governor in Council, whose duty it is to assist in the promotion of industrial activity in that part of Ontario served by the Ontario Northland Railway.

Industrial  
commis-  
sioner may  
be member  
of Assembly  
R.S.O. 1980,  
c. 235

(2) Notwithstanding anything in the *Legislative Assembly Act*, the appointment of the industrial commissioner, if a member of the Assembly, is not avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor does he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1970, c. 326, s. 6.

Railways,  
etc., vested  
in Commis-  
sion

**7.—**(1) The railways and branch lines heretofore constructed by the Commission and all other works constructed and used in connection therewith, and any other railways, branches and other works constructed by the Commission under the authority of this Act, are vested in the Commission for the purposes herein set forth.

Powers of  
Commission

(2) Subject to the approval and direction of the Lieutenant Governor in Council, the Commission may,

- (a) construct, equip, maintain and operate a line or lines of railway from the present northern terminal of the railway to some point on James Bay or the vicinity thereof;
- (b) construct, complete, equip, maintain and operate such spurs and branches from any of the lines of railway of the Commission as may be considered necessary, not exceeding twenty miles in length in any one place, and may exercise the like powers with respect to such spurs and branches as it has exercised and may exercise with respect to any such lines;
- (c) construct, complete, equip, maintain and operate telephone and telegraph lines and with respect thereto has and shall exercise all the powers that may be exercised by a railway company under *The Railways Act* or by any general Act of the Legislature affecting railways for the time being in force, or by a telephone or telegraph company incorporated under the general laws of Ontario;
- (d) purchase or otherwise acquire motor vehicles and trailers as defined by the *Highway Traffic Act*, aircraft and lines of buses, coaches, trucks and aircraft, and may operate, maintain, control and manage such vehicles, trailers, aircraft and lines for the purpose of carrying on, upon the highway and elsewhere, the business of a public carrier of passengers and freight;

R.S.O. 1950,  
c. 331

R.S.O. 1980,  
c. 198

- (e) purchase or otherwise acquire, construct, complete, equip, maintain and operate hotels, tourist resorts, restaurants, boats and vessels and lines of boats and vessels;
  - (f) purchase or otherwise acquire, construct, complete, equip, maintain or operate such undertakings and provide such services in that part of Ontario that is served by the Commission, as the Commission may consider to be for the benefit of travellers therein or residents thereof;
  - (g) make financial contributions to or for undertakings or services that are maintained or provided in that part of Ontario which is served by the Commission for the benefit of travellers therein or residents thereof.
- R.S.O. 1970, c. 326, s. 7.

**8.** Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations for establishing and administering, through a board or otherwise, a pension fund for the payment of superannuation or disability allowances to the employees or members of the Commission or any class thereof. R.S.O. 1970, c. 326, s. 8.

**9.** The provisions of the *Public Commercial Vehicles Act* and sections 2 to 19 and 27 to 29 of the *Public Vehicles Act* and paragraph 1 of section 227 of the *Municipal Act* do not apply to or are not binding upon the Commission. R.S.O. 1970, c. 326, s. 9.

**10.** Subject to the approval of the Lieutenant Governor in Council, the Commission may purchase or otherwise acquire or promote and cause to be incorporated and organized a company or companies under any public or private Act of any province or of Canada for the exercise of all or any of the powers conferred upon the Commission, or for the better operation, management or control of its undertaking or any part thereof, and every such company possesses and enjoys all the powers, rights, remedies and immunities conferred by law or by this Act upon the Commission. R.S.O. 1970, c. 326, s. 10.

**11.** Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into an agreement with the Nipissing Central Railway Company to acquire, lease or otherwise deal with the railway and the undertakings of the Company in whole or in part, and upon such acquisition, lease or other dealing, may operate such railway and its undertakings in the same manner and, subject to the agreement, to the same extent as if such railway and undertakings formed part of the Ontario Northland Railway. R.S.O. 1970, c. 326, s. 11.

Approval of  
Lieutenant  
Governor  
in Council

**12.** The location of the lines of railway and other works of the Commission and of the branches, and the plans of all works proposed, and the by-laws of the Commission are subject to the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 326, s. 12.

Tolls and  
fares

**13.—(1)** The Commission may make regulations fixing the fares and tolls to be charged for all traffic carried and with respect to any telephone or telegraph lines operated by the Commission as herein authorized.

Cancellation  
or amend-  
ment by  
Government

**(2)** The regulations so made are at all times subject to cancellation or amendment at the direction of the Lieutenant Governor in Council.

Regulations  
to be  
deemed  
administra-  
tive

**(3)** The regulations so made shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1970, c. 326, s. 13.

Agreement  
with  
railway  
companies

**14.—(1)** Subject to the approval and direction of the Lieutenant Governor in Council, the Commission may enter into an agreement with any railway company to provide and secure such reciprocal running powers, traffic arrangements and other rights over and in respect of the railway of such company and the railway constructed or to be constructed by the Commission as will afford to such company and to the Commission reasonable and proper facilities for mutually exercising such running powers, fair and reasonable traffic arrangements and equitable mileage rates between the Commission and such company.

Agreements  
to lease  
railway  
lines

**(2)** Subject to the approval and direction of the Lieutenant Governor in Council, the Commission may agree to lease and may lease to any person any of the lines of the railway and any lands, structures and equipment acquired or used in connection therewith, but no lease by the Commission of any spur, branch or portion of the line exceeding twenty miles in any one place has effect until approved by resolution of the Assembly. R.S.O. 1970, c. 326, s. 14.

Motive  
power

**15.** The Commission may operate the railway or any section thereof by electricity or by any other motive power. R.S.O. 1970, c. 326, s. 15.

Power  
houses,  
elevators,  
docks,  
vessels, etc.

**16.** The Commission may purchase land for and erect power houses, warehouses, elevators, docks, stations, workshops, garages, hangars, air harbours and landing grounds, offices and any other works necessary for the exercise of the powers conferred upon the Commission and may sell and convey any such land as may from time to time be found superfluous for any such purpose. R.S.O. 1980, c. 326, s. 16.



**17.** The Commission may erect and maintain all necessary and convenient buildings, garages, hangars, air harbours and landing grounds, filling stations, stations, depots, wharves and fixtures, and may from time to time alter, repair or enlarge the same, and may purchase and acquire motors, motor vehicles, trailers, aircraft, engines, carriages, wagons and other machinery and contrivances necessary for the working of the railway and its buses, trucks and aircraft lines and the accommodation and use of the passengers, freight and business of the Commission. R.S.O. 1970, c. 326, s. 17.

Erection,  
main-  
tenance,  
alteration  
and repair  
of buildings,  
etc.

**18.** The Commission may sell or otherwise dispose of any motor vehicles, aircraft, equipment, boats, vessels, works or other property as may from time to time be found superfluous or unfit for the purposes of the Commission. R.S.O. 1970, c. 326, s. 18.

Power to  
sell or  
dispose of  
motor  
vehicles,  
etc.

**19.** The Commission may, subject to the approval of the Lieutenant Governor in Council, construct, maintain and operate works for the production of electricity or other motive power for the railway, and for lighting and heating the rolling stock and other property of the railway, and may from time to time sell or lease any such electricity or other motive power not required for the purposes aforesaid to any person or corporation and may acquire and hold any property necessary for such purposes. R.S.O. 1970, c. 326, s. 19.

Works for  
production  
of electricity

**20.** The Commission may acquire the right to convey and transmit electric or other power required for the working of the railway or any other works of the Commission, and lighting or heating the same over, through or under land other than the land of the Commission, and may purchase or otherwise acquire the right to lay conduits under, or erect poles or wires on or over such land as may be determined by the Commission, and along and upon any of the public highways or across any of the waters in Ontario, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires for the lines, or the conduits for such electricity or other power upon and subject to such agreement in respect thereto as shall first be made between the Commission and any private owners of the land affected, or failing such agreement subject to the right of expropriation as provided in section 24. R.S.O. 1970, c. 326, s. 20.

Works for  
transmission  
of power

**21.—(1)** The Lieutenant Governor in Council may by order in council transfer to the Commission any ungranted land in Ontario that in the opinion of the Commission is required for the railway or for convenient and necessary right of way, sidings, yards or stations or for the supply, for the purposes of the railway, of stone, gravel, earth, sand or water, or for any other purpose or use in connection with the railway or other works of the Commission.

Transfer of  
ungranted  
Crown lands  
to Com-  
mission

Registration  
of order  
making  
transfer

(2) Registration of a certified copy of any such order in council in the proper land registry office vests in the Commission as trustee for Ontario the land described in such order in council. R.S.O. 1970, c. 326, s. 21; 1972, c. 133, s. 7.

Appoint-  
ment of  
officers and  
employees

**22.** Subject to any general regulation that may be made by the Lieutenant Governor in Council, the Commission may from time to time appoint such officers and employees as the Commission may consider necessary for the proper conduct of the business of the Commission, and may prescribe their duties and fix their remuneration. R.S.O. 1970, c. 326, s. 22.

Security for  
safekeeping  
of funds

**23.** Security shall be given by any person entrusted by the Commission with the custody and control of money by virtue or his employment, in such manner and to such amount as may be prescribed by the Commission. R.S.O. 1970, c. 326, s. 23.

General  
powers of  
Commission

**24.**—(1) The Commission has in respect of the railway and works, in addition to all the powers, rights, remedies and immunities conferred by this Act, all the powers, rights, remedies and immunities conferred upon any railway company by *The Railways Act*, or by general Act of the Legislature affecting railways for the time being in force, but *The Railways Act* or any other such Act does not in other respects apply to the railway or is not binding upon the Commission.

R.S.O. 1950,  
c. 331

Expropria-  
tion of ease-  
ments, etc.

(2) The Commission may from time to time, at its option, in lieu of expropriating land under any such general railway Act, expropriate such easements, rights of user and rights of support as is indicated in any notice to be given by the Commission in that behalf. R.S.O. 1970, c. 326, s. 24 (1, 2).

Alternative  
method of  
expropria-  
tion

(3) In lieu of proceeding in the manner provided by *The Railways Act* or any other general Act of the Legislature affecting railways, the Commission may at its option acquire and expropriate any such lands, easements, rights of user and rights of support in the same manner with necessary modifications as is provided in the case of land or property taken by the Crown as represented by the Minister of Government Services under the *Ministry of Government Services Act*, and any claim for compensation for any such lands, easements, rights of user or right of support shall in that case be determined in the manner provided by the *Expropriations Act*. R.S.O. 1970, c. 326, s. 24 (3); 1973, c. 2, s. 2.

R.S.O. 1980,  
cc. 279, 148

Carrying  
railways  
over high-  
ways

(4) The railway of the Commission, including any branch lines, spurs or sidings, may be carried along or across existing highways upon leave therefor having been first obtained from the Ontario Municipal Board, and, subject to the *Expropriations Act*, sections 118 to 128 of *The Railways Act* apply to any such occupation of

existing highways, and to the construction and use of any such railways carried along or across the same and to any application for such leave.

(5) Sections 285, 287 and 291 to 295 of *The Railways Act*, in respect of the Commission and its railway and the works thereof, apply thereto and to persons charged with offences or subject to the penalties therein mentioned in the same manner and to the same extent, with necessary modifications, as if such sections had been enacted in this Act and formed part thereof.

Application of  
R.S.O. 1950,  
c. 331

(6) The Commission may appoint constables, and for the purposes mentioned in *The Railways Act* every person appointed by the Commission as a constable, and every conductor of a train of the Commission carrying passengers has in respect of its duties, all the powers and rights conferred upon railway constables and conductors of passenger trains, respectively, by *The Railways Act* or by any other general Act affecting such officials for the time being in force, and the provisions of the *Public Authorities Protection Act* respecting constables, with necessary modifications, apply to any such constable and conductor. R.S.O. 1970, c. 326, s. 24 (4-6).

Powers of  
constables  
and  
conductors

R.S.O. 1980,  
c. 406

**25.** Where in this Act the approval or consent of the Lieutenant Governor in Council is made a condition precedent to the exercise of any power conferred on the Commission, such power may be exercised by any company which the Commission may purchase or otherwise acquire or cause to be incorporated if the approval or consent of the Lieutenant Governor in Council is obtained. R.S.O. 1970, c. 326, s. 25.

Approval of  
Lieutenant  
Governor  
in Council

**26.** The railway shall as far as practicable be constructed, equipped and operated with railway supplies and rolling stock made, purchased or procured in Canada, if they can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality. R.S.O. 1970, c. 326, s. 26.

Supplies  
and rolling  
stock to be  
purchased  
in Canada

**27.** No person shall be employed in the construction of the railway and works in contravention of the *Immigration Act* (Canada) or the provisions of *The Railways Act* respecting the employment of alien labour. R.S.O. 1970, c. 326, s. 27.

Employ-  
ment of  
aliens in  
construction  
prohibited  
1976-77, c. 52  
(Canada)

**28.** The workmen, labourers and servants employed in or about the construction or operation of the railway and works shall be paid such rates of wages as may be concurrently payable to workmen, labourers and servants engaged in similar occupations in the districts in which the railway and works are constructed and operated. R.S.O. 1970, c. 326, s. 28.

Current rate  
of wages to  
be paid



Transfer of  
lands to  
Commission  
for town  
sites, etc.

**29.**—(1) The Lieutenant Governor in Council may from time to time by order in council transfer to the Commission for town sites, portions of the ungranted land of Ontario along the line of railway adjacent to stations or proposed stations, and the registration of a certified copy of any such order in council in the proper land registry office vests in the Commission, as trustee for Ontario, the land described in any such order in council. R.S.O. 1970, c. 326, s. 29 (1); 1972, c. 133, s. 7.

Acquiring  
other lands  
for same  
purpose

(2) The Commission may for the same purpose from time to time acquire other land so situate by the same means as it is authorized to acquire land for right of way and station grounds, and has all the rights and powers with reference to the acquisition thereof by expropriation or otherwise as it has with reference to the acquisition of land for right of way, but the land acquired for town sites shall not exceed 1,000 acres for any one site.

Powers of  
Commission  
as to  
disposing  
of lands

(3) The Commission may from time to time lay out, sell, lease or otherwise dispose of any part of such land as it may think proper, and may take mortgages or other securities for any unpaid purchase money. R.S.O. 1970, c. 326, s. 29 (2, 3).

Minerals  
and mining  
rights

**30.** Subject to any general regulation that may be made by the Lieutenant Governor in Council, the Commission may from time to time sell, lease or otherwise deal with mines, minerals and mining rights upon or under any portion or portions of the right of way, town sites or other lands now vested and hereafter vested in the Commission. R.S.O. 1970, c. 326, s. 30.

Dedication  
of highways  
not to affect  
mining  
rights

**31.** The laying out, whether by plan or otherwise, or the dedication in any manner of any land within any town site as or for public streets or highways shall not be deemed to revest in the Crown, or to vest in the corporation of the municipality in which the town site is situate, any mines, minerals or mining rights theretofore granted by the Crown to the Commission or to any other person on or under any such land so laid out or dedicated, but the Commission or such other grantees of the mines, minerals and mining rights on or under the land so laid out or dedicated have the right from time to time to carry on mining operations on or under such land, or to sell, lease or otherwise deal with the mines, minerals and mining rights on or under such land, subject, however, to the obligation of all parties actually conducting mining operations on or under any such land, whether as owners, lessees or otherwise, to conduct such mining operations in such way as will not interfere with public travel upon such streets and highways. R.S.O. 1970, c. 326, s. 31.



**32.** No such mining operations shall at any time be begun or carried on upon or under any land so laid out or dedicated as public streets or highways until after the person, whether as owner, lessee or otherwise, proposing to carry on such mining operations, has submitted to the council of the municipality in which the streets or highways are situate proper plans of the proposed mining operations with all necessary specifications and details, nor until the plans have been approved in writing by the engineer of the municipality or an engineer appointed by the corporation of the municipality for that purpose, and may thereafter be carried on in strict conformity to the plans and not otherwise. R.S.O. 1970, c. 326, s. 32.

Conditions  
precedent to  
right to  
carry on  
mining

**33.—(1)** The Commission, and any or all of the commissioners or any officer of the Commission designated by the Commission for that purpose, may hold the shares of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Commission under the authority of this Act, in trust for Ontario, and may exercise all the rights of shareholders in respect of the shares so held by them.

Holding  
shares

**(2)** The Commission may advance to the Nipissing Central Railway Company such sums as may be required from time to time for the maintenance and operation of the line of railway of the company, or for the purchase, construction, repair and maintenance of the equipment thereof.

Commission  
authorized  
to advance  
funds to  
Nipissing  
Central for  
construction

**(3)** The Commission, with the approval of the Lieutenant Governor in Council, may also advance to the Nipissing Central Railway Company such sums as may from time to time be required for the construction and completion of the line or lines of railway of the company.

For  
equipment

**(4)** The Commission may guarantee the performance of any or all obligations and undertakings of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Commission, and may guarantee the repayment of any advances made to any such company for the purposes of its obligations and undertakings or any of them, but no such guarantee shall be made either for the performance of obligations for construction or the repayment of moneys in respect of obligations for construction until such guarantee has been authorized by the Lieutenant Governor in Council.

Guarantee-  
ing contracts

**(5)** The Commission, with the approval of the Lieutenant Governor in Council, may advance to any company purchased or otherwise acquired or caused to be incorporated by the Commission, such sums as may be required for the obligations and undertakings of the Company. R.S.O. 1970, c. 326, s. 33.

Commission  
authorized  
to advance  
funds to  
subsidiaries

Commission  
authorized  
to issue  
bonds, etc.

**34.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may borrow money from time to time for carrying out its purposes, and may issue bonds, debentures, notes, or other securities to provide for the repayment of any moneys so borrowed and such securities may be charged upon and secured by the property, assets, rights, rents and revenues of the Commission present or future therein described and may be payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such interest as the Commission may consider proper.

Additional  
financing  
powers

(2) Money borrowed from time to time for carrying out the purposes of the Commission may, without restricting the generality of the power, be used to refund or repay any existing indebtedness or to make repayment on account of advances by the Province of Ontario to the Commission or to pay any indebtedness that has been guaranteed or assumed by the Commission.

Guarantee-  
ing bonds

(3) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for the purposes aforesaid.

Form of  
guaranty

(4) The form of guaranty and the manner of its execution shall be determined by the Lieutenant Governor in Council.

Interpre-  
tation

(5) For the purposes of this section, "railway" means the railway that the Commission or the Nipissing Central Railway Company is authorized to construct or operate and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property, real or personal, and works connected therewith and also any railway bridge, tunnel, or other structure that the Commission or the Nipissing Central Railway Company is authorized to construct. R.S.O. 1970, c. 326, s. 34.

Advances  
out of  
Consolidated  
Revenue  
Fund

**35.** The Lieutenant Governor in Council may from time to time authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund, such sums as may be considered necessary for the construction, maintenance and operation of the railway and for the purchase, maintenance and operation of motor vehicles, trailers, aircraft, lines of buses, coaches, trucks and aircraft and equipment therefor or other works of the Commission, and all moneys so advanced shall be duly accounted for by the Commission. R.S.O. 1970, c. 326, s. 35.

Special  
account in  
books of  
Treasury

**36.** An account to be called the Ontario Northland Transportation Commission Account shall be kept by the Ministry

of Treasury and Economics of all payments out of the Consolidated Revenue Fund and of moneys received from the Commission in repayment of any indebtedness incurred by the Commission. R.S.O. 1970, c. 326, s. 36; 1972, c. 3, s. 17 (2).

**37.**—(1) The revenues and receipts of the Commission shall be applied to the payment of all costs, liabilities, obligations and expenditures properly incurred or made, and all surpluses shall be paid into the Consolidated Revenue Fund at such times and in such amounts as the Lieutenant Governor in Council may direct. Application of revenue

(2) The Commission may provide a sinking fund for the purpose of the redemption of any securities issued by the Commission. Sinking fund

(3) The amount of surplus to the credit of any sinking fund provided by the Commission shall be invested in securities of the Province of Ontario at such times and in such manner as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 326, s. 37. Investment of surplus moneys

**38.** The Commission shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which the same were received and paid, which books shall at all times be open to the inspection of any member of the Commission and of the Treasurer of Ontario, and of any person appointed by the Commission or Treasurer for that purpose and of any other person appointed by the Lieutenant Governor, and any member of the Commission, and any of such persons may take copies of or extracts from such books. R.S.O. 1970, c. 326, s. 38. Accounts to be kept by Commission

**39.** The Provincial Auditor shall be the auditor of the Commission and he shall audit the books, records and accounts of the Commission and prepare an annual auditor's statement covering the fiscal year last past. R.S.O. 1970, c. 326, s. 39. Auditor

**40.** The fiscal periods of the Commission end on the 31st day of December in each year. R.S.O. 1970, c. 326, s. 40. Fiscal year

**41.**—(1) The Commission shall, after the close of each fiscal year of the Commission, file with the member of the Executive Council who is responsible for the administration of this Act an annual report which shall include the report of its auditor and which shall set forth the operations of the Commission for the fiscal year then last past and such particulars as may appear to the Commission to be of public interest or as may be required by the Lieutenant Governor in Council. Annual report

Tabling

(2) The member of the Executive Council who is responsible for the administration of this Act shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 326, s. 41.

Commission  
and officers  
not to con-  
tract with  
commis-  
sioners

**42.** No member of the Commission nor any officer or employee thereof shall make or enter into any contract with the Commission, or be pecuniarily interested directly or indirectly in any contract or work in regard to which any portion of the money under the control of the Commission is being or is to be expended. R.S.O. 1970, c. 326, s. 42.

Leave of  
Attorney  
General

**43.** No action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office without the consent of the Attorney General. R.S.O. 1970, c. 326, s. 43; 1972, c. 1, s. 9 (7).



## CHAPTER 352

### Ontario Pensioners Property Tax Assistance Act

1. In this Act,

Interpre-  
tation

- (a) “applicant” means an individual who has applied for a grant under this Act;
- (b) “application” means an application for a grant under this Act;
- (c) “eligible person” means an individual who is ordinarily resident in Ontario and,

- (i) is eligible to receive a pension under Part I of the *Old Age Security Act* (Canada), or

R.S.C. 1970,  
c. O-6

- (ii) is a Canadian citizen or a person who has been lawfully admitted to Canada for permanent residence and has attained the age of sixty-five years on or before the 31st day of December in the year in respect of which a grant is applied for under subsection 2 (1),

and incurs, or whose spouse incurs, occupancy cost;

- (d) “family unit” means,

- (i) an individual and his spouse, or

- (ii) any individuals occupying the same principal residence, whether or not they are related to each other;

- (e) “housing unit” includes any premises that an individual ordinarily occupies and inhabits as his residence during the year, but does not include premises that are part of a chronic care facility or other similar institution that is prescribed or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home;

- (f) “Minister” means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;

- (g) “municipal tax” means,

- (i) taxes for municipal and school purposes levied in

respect of real property in Ontario that is assessed as residential or farm property,

(ii) taxes levied for local improvements to real property in Ontario,

R.S.O. 1980,  
cc. 399, 251

(iii) taxes levied under the *Provincial Land Tax Act* or the *Local Roads Boards Act*, and

(iv) such other taxes or special rates as are prescribed,

but “municipal tax” does not include any tax or rate that was payable prior to the 1st day of January, 1980;

(h) “occupancy cost” means,

(i) municipal tax paid or payable in the year to which the application relates in respect of a principal residence of the applicant or his spouse to the extent that such principal residence is beneficially owned by them or either of them or is held in trust for the use and occupation of them or either of them and their dependants as a principal residence, or

(ii) 20 per cent of,

A. municipal tax paid in the year to which the application relates in respect of a principal residence that is not beneficially owned by the applicant and his spouse or either of them or is not held in trust for them or either of them and their dependants, but only to the extent that such municipal tax is included by the owner of such principal residence in computing his taxable income under the *Income Tax Act* (Canada) for the taxation year, and

R.S.C. 1952,  
c. 148

B. rent paid in the year to which the application relates for occupation of a principal residence of the applicant where such rent is paid by or on behalf of the applicant or his spouse and is calculated to exclude all payments on account of meals or board and all payments of rent for occupation prior to the 1st day of January, 1980;

- (i) "prescribed" means prescribed by the regulations;
- (j) "principal residence" means a housing unit in Ontario that was in the year to which the application relates occupied by the applicant as his principal residence, and that is designated by the applicant in the prescribed manner as a principal residence of his in the year to which the application relates;
- (k) "regulations" means the regulations made under this Act;
- (l) "separation agreement" means an agreement under which an individual and his spouse live separate and apart and maintain separate principal residences. 1980, c. 18, s. 1.

**2.—**(1) Subject to section 6, an individual may make an application for a grant in the form prescribed by the Minister in respect of a year in which he was an eligible person and the Minister may, subject to the provisions of this Act, pay a grant to that individual. Application for and payment of grant

(2) A grant under subsection (1) shall not exceed the lesser of, Limits

(a) \$500; or

(b) the occupancy costs of the applicant or his spouse incurred in the year to which the application relates.

(3) In 1981 and subsequent years, the Minister may pay a grant under this section in two or more instalments and may, without receipt of an application, pay to an eligible person that portion of a grant which does not exceed one half of such eligible person's entitlement in the prior year under this section, but the balance of such grant shall be paid only upon receipt of an application. 1980, c. 18, s. 2. Instalment payments

**3.—**(1) Subject to subsection (2), the Minister shall pay only one grant under section 2 to a family unit in respect of each year. Grant limits

(2) Where an individual and his spouse are separated and have entered into a separation agreement, the Minister may make a grant under section 2 to each spouse who makes an application in respect of each year in which the applicant is an eligible person. Spouses separated

(3) No individual shall make an application for or receive more than one grant under section 2 in respect of each year. 1980, c. 18, s. 3. One grant per year

Where  
principal  
residence  
shared

**4.**—(1) Subject to subsection (2), where the occupancy cost of a principal residence is shared among the members of a family unit, two or more of whom are eligible persons or their spouses, the grant under section 2 to which they are entitled shall be applied for jointly by such eligible persons and there shall be designated on the application that portion of the grant or the whole thereof that is to be received by any of such applicants.

Apportion-  
ment

(2) Where a grant under section 2 is to be apportioned under subsection (1), such apportionment shall be made on the basis of the occupancy cost attributable to each applicant or to the spouse of an applicant where the applicant himself has not incurred any occupancy cost. 1980, c. 18, s. 4.

Date of  
eligibility  
R.S.C. 1970,  
c. O-6

**5.**—(1) An individual who becomes eligible to receive a pension under Part I of the *Old Age Security Act* (Canada) in January of any year, shall be deemed to be an eligible person for the immediately preceding year and may apply for a grant under section 2 or receive a grant under section 7 in respect of that preceding year.

Where tax  
credits not  
to be  
claimed

R.S.O. 1980,  
cc. 213, 134

(2) No individual who is eligible for a grant under section 2 or 7 shall apply for, or receive in respect of any year in which a grant is received under this Act, any tax credit provided under section 7 of the *Income Tax Act*, except a tax credit for a payment that is a contribution for the purposes of the *Election Finances Reform Act*. 1980, c. 18, s. 5.

Time limit  
on  
application

**6.** An application for a grant under section 2 must be received by the Minister not later than twelve months from the end of the year to which the grant application relates. 1980, c. 18, s. 6.

Additional  
grant

**7.** In addition to any grant paid under section 2, the Minister may, in respect of each year, pay a grant of \$50 to every individual who is ordinarily resident in Ontario and,

(a) is eligible to receive a pension under Part I of the *Old Age Security Act* (Canada); or

(b) is a Canadian citizen or a person who has been lawfully admitted to Canada for permanent residence and has attained the age of sixty-five years on or before the 31st day of December in the year in respect of which a grant may be paid under this section. 1980, c. 18, s. 7.

Ineligibility

**8.** In the event that,

(a) an eligible person ceases to have a principal residence;

(b) an individual ceases to be an eligible person; or

(c) an eligible person dies,



at any time in a year, the Minister may pay a grant to the applicant, his trustee, executor or administrator, the Public Trustee or a person entitled by law to apply for letters probate or letters of administration respecting the estate of the deceased, upon prescribed terms and conditions and in such amount as may be determined in the prescribed manner. 1980, c. 18, s. 8.

9.—(1) The Minister upon receiving an application for a grant shall forthwith consider the application and he may, Minister to consider application

(a) approve payment of a grant and determine the amount thereof that may be paid to the applicant; or

(b) determine that no grant may be paid to the applicant.

(2) Where particulars of the basis on which the amount of any grant that may be paid to the applicant was determined by the Minister are requested by the applicant, or where the Minister determines that no grant may be paid to the applicant, the Minister shall forthwith, in writing, notify the applicant of the basis upon which the amount was determined or of the basis upon which his determination was reached that no grant may be paid and shall notify the applicant of his right to object under this section. Notification of Minister's decision

(3) Where an applicant is dissatisfied with the determination of the Minister under subsection (1) or with the decision of the Minister under subsection (2), he may object to the determination or decision, and, within sixty days from the date of notice of such determination or decision by the Minister, serve on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts. Objection by applicant

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required. Notice

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination or decision objected to and confirm, vary or reverse such determination or decision, and he shall thereupon notify the person making the objection of his action by registered mail. Minister to reconsider

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. 1980, c. 18, s. 9. Minister's decision final

10. In any dispute over a determination or decision of the Minister under subsection 9 (5), the Minister may, where Appeal on question of law

the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. 1980, c. 18, s. 10.

Information  
confidential

**11.**—(1) Except as provided in subsection (2), all information obtained under this Act by any officer, employee or agent of the Ministry is privileged and confidential, and no such officer, employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information.

Exceptions

(2) Any information referred to in subsection (1) that is obtained by any officer, employee or agent of the Ministry in the administration of this Act may be communicated to any officer or employee of the Department of National Health and Welfare of the Government of Canada or of the Department of National Revenue of the Government of Canada or of the Ministry of Treasury and Economics of the Government of Ontario. 1980, c. 18, s. 11.

Information  
Minister  
may act  
upon

**12.**—(1) In order to facilitate the carrying out of the intent and purpose of this Act, or for the purpose of ascertaining any fact necessary to establish that a person is an eligible person under this Act, the Minister may act upon any decision made by the Minister of National Health and Welfare of the Government of Canada or by a court or tribunal to which an appeal is taken as provided for in the *Old Age Security Act* (Canada).

R.S.C. 1970,  
c. (1)-6

Agreements  
for  
information

(2) The Minister is authorized to enter into and to proceed upon any arrangement with the Minister of National Health and Welfare of the Government of Canada for obtaining, exchanging and keeping confidential any information furnished under this Act or under the *Old Age Security Act* (Canada), or any arrangement that will, in the opinion of the Minister, facilitate the implementation and carrying out of the provisions of this Act and the payment of grants to which an eligible person is entitled under this Act. 1980, c. 18, s. 12.

Grant not  
assignable

**13.** A grant under this Act shall not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security a grant is void. 1980, c. 18, s. 13.

**14.**—(1) Where a person receives or obtains a grant under this Act to which he is not entitled or the payment of an amount in excess of the grant to which he is entitled, he shall forthwith return to the Minister such grant or excess amount, as the case may be.

Repayment  
of grant  
where  
ineligible

(2) Where a person receives or obtains the payment of a grant to which he is not entitled or the payment of an amount in excess of the grant to which he is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced at any time, and, where the person is or subsequently becomes an eligible person, the amount of any such indebtedness may be deducted and retained out of any grant payable to him or out of any payment to which he may be entitled at any time thereafter under subsection 7 (7) of the *Income Tax Act*, and where applicable, the amount of any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act*.

Idem

R.S.O. 1980,  
cc. 213, 161

**15.**—(1) Every person who,

Offence

- (a) knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant under this Act to which he is not entitled or to which a person on whose behalf he is acting is not entitled;
- (b) knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant under this Act to which he is not entitled or to which the person on whose behalf he is acting is not entitled;
- (c) knowingly, converts to his own use a payment of a grant under this Act to which he is not entitled; or
- (d) contravenes section 11 or 16,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500.

(2) No proceedings in respect of an offence under this Act shall be commenced except within five years of the time when the offence was or is alleged to have been committed.

Limitation

**16.**—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where

Investigation

anything is done in connection with any business or where any books or records are kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of a grant paid or payable under this Act;
- (b) examine property described in any conveyance or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any grant paid or payable under this Act;
- (c) require any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Production of documents and records to Minister

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for a grant under this Act.

Copies of documents and records

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.



(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Compliance

(5) Any officer or employee in the Ministry of Revenue who is authorized by the Minister may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. Administration  
of oaths 1980, c. 18, s. 16.

**17.—(1)** The Minister may make regulations,

Regulations

- (a) prescribing any form, notification or statement to be prescribed or that is required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, notification or statement shall be completed and what information it shall contain and requiring any information to be verified by statutory declaration;
- (b) prescribing classes of persons to be eligible persons who reside in a premises that is not a housing unit;
- (c) prescribing by class or type the kinds of institutions that are not housing units;
- (d) providing for the payment of interest where no grant was payable or on over-payments of a grant and prescribing the rate of interest payable thereon;
- (e) prescribing the manner in which occupancy costs shall be attributed for the purposes of subsection 4 (2).

(2) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the evidence to be furnished to the Minister to establish facts relevant to the entitlement of any person to receive a grant and to establish the amount of such grant;
- (b) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;

- (c) prescribing the manner in which any amount required by this Act to be deducted and retained out of any grant shall be so deducted and retained;
- (d) prescribing any amount greater than the amount set out in clause 2 (2) (a) or set out in section 7;
- (e) prescribing the conditions of eligibility to any grant payable under this Act;
- (f) defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
- (g) prescribing any condition that an applicant must meet prior to receiving a grant;
- (h) prescribing any matter required by this Act to be prescribed by the regulations.

Retro-  
activity

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1980, c. 18, s. 17.

Moneys  
required  
for Act

**18.** The moneys required for the purposes of this Act shall, until the 31st day of March, 1981, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. 1980, c. 18, s. 18.

## CHAPTER 353

## Ontario Place Corporation Act

**1.** In this Act,Interpre-  
tation

(a) "Board" means the board of directors of the Corporation;

(b) "Corporation" means Ontario Place Corporation;

(c) "Minister" means the Minister of Industry and Tourism. 1972, c. 33, s. 1.

**2.** The Minister is responsible for the administration of this Act. 1972, c. 33, s. 2.

Administra-  
tion of Act

**3.—**(1) Ontario Place Corporation is continued as a corporation without share capital. 1972, c. 33, s. 3, *part, revised*.

Ontario Place  
Corporation  
continued

(2) The Corporation shall consist of not fewer than seven and not more than thirteen members of whom one shall be the Deputy Minister of Industry and Tourism, *ex officio*, and the remainder, of whom one shall be a director of the Canadian National Exhibition Association, shall be appointed by the Lieutenant Governor in Council.

Composition

(3) The members shall be paid such remuneration as is fixed by the Lieutenant Governor in Council. 1972, c. 33, s. 3, *part*.

Remunera-  
tion of  
members

**4.—**(1) The members of the Corporation for the time being form and are its board of directors.

Board of  
directors

(2) The Lieutenant Governor in Council shall designate one of the members to be chairman of the Board and may designate one of the members to be vice-chairman of the Board.

Chairman,  
vice-  
chairman

(3) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such director as the Board designates for such purpose shall act as and have all the powers of the chairman.

Acting  
chairman

(4) A majority of the directors shall constitute a quorum of the Board. 1972, c. 33, s. 4.

Quorum

R.S.O. 1980,  
c. 95  
not to apply

**5.** The *Corporations Act* does not apply to the Corporation.  
1972, c. 33, s. 5.

Management  
of  
Corporation

**6.** The affairs of the Corporation are under the management and control of the Board, and the chairman shall preside at all meetings of the Board, or, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman. 1972, c. 33, s. 6.

Officers and  
employees  
R.S.O. 1980,  
c. 418

**7.—**(1) Such officers, clerks and servants may be appointed under the *Public Service Act* as are considered necessary for the proper conduct of the business of the Corporation. 1973, c. 40, s. 1.

Employees'  
superannua-  
tion benefits  
R.S.O. 1980,  
c. 419

(2) The *Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 28 of that Act. 1972, c. 33, s. 7 (2).

Objects

**8.** The objects of the Corporation are,

- (a) to operate Ontario Place as a provincial exhibit and recreational centre;
- (b) to develop projects and programs designed to provide the people of Ontario with a greater appreciation of the Province and its accomplishments and potential, and to provide talented artists in the Province with the opportunity to exhibit their works and their abilities;
- (c) to develop special programs from time to time considered to be worthwhile to enhance the image of the Province and to co-ordinate activities with the Canadian National Exhibition at times when that exhibition is in operation; and
- (d) to do such other things as the Minister may require from time to time and to advise the Minister on projects and programs of general advantage to the Province. 1972, c. 33, s. 8.

General  
powers and  
duties

**9.—**(1) It is the duty of the Corporation to develop, control, manage, operate and maintain Ontario Place and for the purposes of carrying out such duty the Corporation has power,

- (a) to make such by-laws, rules and orders as may be considered expedient for the constitution of the



Corporation and the administration and management of its affairs and the conduct of its business;

- (b) to acquire, construct, operate, maintain and generally manage and provide recreational and exhibition facilities and programs, restaurants, theatres, shops and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of Ontario Place;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with Ontario Place;
- (d) to receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal or any interest therein.

(2) Subject to the approval of the Lieutenant Governor<sup>Transfer of assets</sup> in Council, such property of the Crown in right of Ontario as is considered necessary or advisable for the purpose of carrying out its objects may be transferred to and vested in the Corporation for such purpose. 1972, c. 33, s. 9.

**10.** The Corporation, with the approval of the Lieutenant Governor<sup>Regulations</sup> in Council, may make regulations,

- (a) regulating and governing the use by the public of Ontario Place and the works and things under the jurisdiction of the Corporation;
- (b) providing for the protection and preservation from damage of the property of the Corporation;
- (c) prescribing fees for entry into Ontario Place and in connection with any service or the use of any facility provided therein. 1972, c. 33, s. 10.

**11.** The property and the income, revenues and profits<sup>Revenue</sup> of the Corporation shall be applied solely to promote the objects of the Corporation. 1972, c. 33, s. 11.

**12.** The Minister may, out of the moneys appropriated therefor by the Legislature, make grants or loans<sup>Grants and loans</sup> to the Corporation at such times, in such amounts and upon such terms and conditions as he considers advisable. 1972, c. 33, s. 12.

## Audit

**13.** The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor. 1972, c. 33, s. 13.

Annual  
report

**14.—(1)** The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

## Reports

(2) The Corporation shall make such further reports to the Minister as the Minister may from time to time require. 1972, c. 33, s. 14.

## CHAPTER 354

### Ontario Planning and Development Act

#### 1. In this Act,

Interpre-  
tation

- (a) "development plan" means a plan, policy and program, or any part thereof, approved by the Lieutenant Governor in Council, covering a development planning area or a portion thereof, as defined therein, designed to promote the optimum economic, social, environmental and physical condition of the area, and consisting of the texts and maps describing the program and policy;
- (b) "development planning area" means an area of land in Ontario in respect of which an order is made under section 2;
- (c) "local plan" means an official plan approved by the Minister or by the Ontario Municipal Board under the *Planning Act*;
- (d) "Minister" means the Minister of Housing;
- (e) "ministry" means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government;
- (f) "zoning by-law" means a by-law passed under section 39 of the *Planning Act* or any predecessor thereof and approved by the Ontario Municipal Board. 1973, c. 51, s. 1; 1974, c. 50, s. 1; O. Reg. 407/79, s. 1.

R.S.O. 1980,  
c. 379

**2.—(1)** The Minister may by order establish as a development planning area any area of land in Ontario defined in the order and the Minister may alter the boundaries of the area defined as a development planning area by amendment to the order. 1973, c. 51, s. 2 (1); 1974, c. 50, s. 2 (1).

Minister  
may establish  
development  
planning  
area

(2) Where a development planning area has been established under subsection (1), the Minister shall include in the order a direction that there be carried out an investigation and survey

Direction by  
Minister to  
prepare  
development  
plan

of the environmental, physical, social and economic conditions in relation to the development of the planning area or any part thereof, and that there be prepared within a period of two years or such other period of time as the Minister in his order determines, a development plan for the planning area or part thereof. 1973, c. 51, s. 2 (2).

Order or  
amending  
order to  
be laid  
before  
Assembly

(3) Where any order or amendment thereto is made under subsection (1), the Minister shall, on the day the order or amending order is made, or as soon thereafter as is practicable, lay the order or amending order before the Assembly if it is in session or, if not, at the commencement of the next ensuing session and the Assembly shall, by resolution, declare the order or amending order approved, revoked or varied. 1974, c. 50, s. 2 (2).

Advisory  
committees

**3.** The Minister shall establish two or more advisory committees, consisting of such persons as the Minister appoints, one of which will represent the municipalities in the development planning area in whole or in part and one of which will be broadly representative of the people of the development planning area, to advise and make recommendations to the Minister in respect of the preparation and implementation of any development plan and to perform any other function given to them by the Minister. 1973, c. 51, s. 3.

Consulta-  
tion with  
municipali-  
ties

**4.** The Minister shall ensure that the council of each municipality having jurisdiction over any area of land for which a development plan is to be prepared, and any municipality which abuts such area of land, is consulted with respect to the proposed contents of such plan. 1974, c. 50, s. 3.

Contents of  
plan

**5.** A development plan may contain,

- (a) policies for the economic, social and physical development of the area covered by the plan in respect of,
  - (i) the general distribution and density of population,
  - (ii) the general location of industry and commerce, the identification of major land use areas and the provision of major parks and open space and the policies in regard to the acquisition of lands,
  - (iii) the management of land and water resources,
  - (iv) the control of all forms of pollution of the natural environment,



- (v) the general location and development of major servicing, communication and transportation systems,
  - (vi) the development and maintenance of educational, cultural, recreational, health and other social facilities, and
  - (vii) such other matters as are, in the opinion of the Minister, advisable;
- (b) policies relating to the financing and programming of public development projects and capital works;
  - (c) policies to co-ordinate planning and development among municipalities within an area or within separate areas, defined by the Minister; and
  - (d) such policies as are, in the opinion of the Minister, advisable for the implementation of the plan. 1973, c. 51, s. 5.

**6.—(1)** In respect of any area of land for which a development plan is to be prepared, the Minister shall cause a proposed development plan to be prepared and shall ensure that,

Proposed development plan to be furnished to municipalities, etc.

- (a) each municipality within such area is furnished with a copy of the proposed development plan and invited to make comments thereon within such period of time, not being less than three months from the time the plan is furnished to it, as is specified;
- (b) a notice is published in one or more newspapers having general circulation in such area notifying the public of the proposed development plan, indicating where a copy of the plan together with the material used in preparation thereof mentioned in subsection (5) can be examined and inviting the submission of comments thereon within such period of time, not being less than three months from the time the notice is first published, as is specified; and
- (c) any advisory committee appointed under section 3 and empowered under that section to make recommendations relating to the preparation and implementation of a development plan covering the area is furnished with a copy of the proposed

development plan and invited to make comments thereon within such period of time, not being less than three months from the time the plan is furnished to the committee, as is specified.

Hearing  
officer

(2) Prior to, upon or after the expiration of time for the making of comments on the proposed development plan, the Minister shall appoint one or more hearing officers for the purpose of conducting one or more hearings, as the Minister may determine, within the area or in the general proximity thereof, for the purpose of receiving representations respecting the contents of the plan by any person desiring to make representations, and separate hearings may be conducted at different times and places for different parts of the planning area.

Notice of  
hearing

(3) A hearing officer shall fix the time and place for the hearing or hearings as determined under subsection (2), and shall publish notice thereof in one or more newspapers having in his opinion general circulation in the area.

Time of  
hearing

(4) The time fixed for any hearing under subsection (3) shall be not sooner than three weeks after the first publication of the notice of hearing and not before the expiration of the time for the making of comments on the proposed development plan.

Procedure  
at  
hearing

(5) At any such hearing, the Minister or any officials of a ministry or any other person that may be approved by the Minister shall present the proposed development plan and the justification therefor and shall make available for public inspection research material, reports, plans and the like that were used in the preparation of such plan and, subject to the rules of procedure adopted by the hearing officer for the conduct of the hearing, the persons presenting the plan may be questioned on any aspect of the plan by any interested person.

Report of  
hearing  
officer

(6) Not more than three months after the conclusion of the hearing or of the last hearing if more hearings than one are held or within such extended time as the Minister prescribes, the hearing officer conducting the hearing or hearings shall report to the Minister a summary of the representations made together with a report stating whether the plan should be accepted, rejected or modified, giving his reasons therefor, and separate reports shall be submitted for each part of the planning area for which a hearing or hearings was conducted.

(7) A copy of the report of the hearing officer, or a copy of each report, if separate hearings were held, shall be made available in the office of the Minister, in the office of the clerk of each municipality, the whole or any part of which is within the area, and in such other offices and locations as the Minister determines for inspection by any person desiring to do so. Inspection of report

(8) After giving consideration to the comments received and the report or reports, if there is more than one, of the hearing officer, the Minister shall submit the proposed development plan with his recommendations thereon to the Lieutenant Governor in Council. Submission of proposed plan to Lieutenant Governor in Council

(9) If the recommendation of the Minister to the Lieutenant Governor in Council is other than that the report or reports, if there is more than one, of the hearing officer, be approved, then the Minister shall give public notice to this effect, state his intention, and a period of twenty-one days allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. When report not approved

(10) The Lieutenant Governor in Council may approve the plan, or may approve the plan with such modifications as the Lieutenant Governor in Council considers desirable, and thereupon the plan is the development plan for the area defined in it. 1974, c. 50, s. 4. Approval of plan by Lieutenant Governor in Council

7.—(1) A copy of every development plan and of every amendment or modification thereto certified by the Minister shall be lodged forthwith with the clerk of each municipality, all or part of which is within the area covered by the plan. Lodging of plan

(2) A copy of every development plan and of every amendment or modification thereto certified by the Minister shall be lodged forthwith in every land registry office of lands within the area covered by the plan, where it shall be made available to the public as a production. 1973, c. 51, s. 7. Idem

8.—(1) An amendment to any development plan that is in effect may be initiated by the Minister, and application may be made to the Minister by any person, ministry or municipality requesting an amendment to the plan. Amendment to plan

(2) Where the Minister initiates an amendment to a development plan or, subject to subsection (3), where the Minister receives an application requesting an amendment to a plan, the provisions of this Act in respect of a development plan relating to consultation, the submission of comments and the holding of hearings apply, with necessary modifications, to the consideration Approval of amendment to plan by Lieutenant Governor in Council

of the proposed amendment, following which the Minister shall submit the amendment with his recommendations thereon to the Lieutenant Governor in Council and the Lieutenant Governor in Council may refuse to approve the amendment or may approve it or may approve the amendment with such modifications as the Lieutenant Governor in Council considers desirable, and in the event an amendment is approved, the development plan as so amended is thereupon the development plan for the area defined in it.

Frivolous,  
etc.,  
applications

(3) Where, in the opinion of the Minister, an application for an amendment is not made in good faith, or is frivolous or is made only for the purpose of delay, the Minister shall inform the applicant in writing of his opinion and notify the applicant that unless he makes written representations thereon to the Minister within such time as the Minister specifies in the notice, not being less than fifteen days from the time the notice is given, the provisions of subsection (2) in respect of the consideration of the amendment shall not apply, and approval of the amendment shall be deemed to be refused.

Idem

(4) Where representations are made to the Minister under subsection (3), the Minister, after giving consideration thereto, shall inform the applicant in writing either that the Minister's opinion is confirmed and that approval of the amendment is deemed to be refused or that he has directed that consideration of the amendment be proceeded with in accordance with subsection (2). 1973, c. 51, s. 8.

By-laws, etc.,  
to conform  
to plan

**9.—(1)** Notwithstanding any other general or special Act, where there is a development plan,

(a) no municipality or local board having jurisdiction in the area covered by the plan, or in any part thereof, and no ministry, shall undertake any improvement of a structural nature or any other undertaking within the area covered by the development plan; and

(b) no municipality having jurisdiction in such area shall pass a by-law for any purpose,

that is in conflict with the development plan.

Minister may  
deem by-law,  
etc., conforms  
to plan

(2) The Minister, upon the application of the council of a municipality having jurisdiction in the area covered by a development plan, or in any part thereof, may, in writing, declare that a by-law, improvement or other undertaking of such municipality shall be deemed not to conflict with the development plan, if the Minister is of the opinion that the



by-law, improvement or other undertaking conforms with the general intent and purpose of the development plan. 1973, c. 51, s. 9.

**10.** Notwithstanding any other general or special Act, <sup>Conflict</sup> where a development plan is in effect in any area and there is a conflict between any provision of the development plan and any provision of a local plan or any provision of a zoning by-law covering part or all of the same area, then the provision of the development plan prevails. 1973, c. 51, s. 10.

**11.—(1)** Where, in the opinion of the Minister, a local <sup>Minister may</sup> plan or a zoning by-law is in conflict with the provisions <sup>require</sup> of any development plan that covers in whole or in part the <sup>submission of</sup> same area, the Minister shall advise the council of the <sup>proposals to</sup> municipality that adopted the local plan or that passed the <sup>resolve</sup> zoning by-law of the particulars wherein the local plan, or <sup>conflict</sup> zoning by-law conflicts with the development plan and shall invite the municipality to submit, within such time as the Minister specifies, proposals for the resolution of the conflict.

**(2)** Where the council of a municipality fails to submit <sup>Power of</sup> proposals to resolve the conflict within the time specified <sup>Minister to</sup> by the Minister, or where after consultation with the Minister <sup>amend</sup> on such proposals, the conflict cannot be resolved and the <sup>local plan</sup> Minister so notifies in writing the council of the municipality, the Minister may by order amend the local plan so as to make it conform to the development plan, and the order when made shall have the same effect as though it were an amendment to the local plan made by the council of the municipality and approved by the Minister. 1973, c. 51, s. 11.

**12.** Nothing in this Act derogates from the power of the <sup>Power of</sup> Minister to make an order under clause 35 (1) (a) of the *Planning* <sup>Minister</sup> Act and, notwithstanding subsection 35 (4) of the *Planning Act*, <sup>re zoning</sup> where there is a development plan in effect in the area to be <sup>R.S.O. 1980,</sup> covered by the order, any such order may be made that does not <sup>c. 379</sup> conform to a local plan in effect in the area, provided the order conforms to the development plan. 1973, c. 51, s. 12.

**13.** Where a development plan is in effect in a municipality <sup>Minister</sup> or any part thereof and the municipality does not have a local <sup>may require</sup> plan in effect or has not passed a zoning by-law or by-laws <sup>adoption</sup> covering the municipality or that part of the municipality <sup>of local plan</sup> covered by the development plan, the council of the municipality, upon being notified in writing by the Minister of that fact, shall, within such time as is specified in the notice, prepare and adopt a local plan or pass a zoning by-law or by-laws <sup>or passage of</sup> that conform to the development plan and submit to the <sup>zoning by-law</sup>

Minister the local plan for approval or submit to the Ontario Municipal Board the zoning by-law or by-laws for approval, as the case requires. 1973, c. 51, s. 13.

Review of  
plan

**14.**—(1) Not later than five years from the day on which a development plan comes into effect, the Minister shall cause a review of the plan to be undertaken, and the provisions of this Act in respect of a development plan relating to consultation, the submission of comments and the holding of hearings apply, with necessary modifications, to the review, following which the Minister shall submit to the Lieutenant Governor in Council a report on the review of the development plan with his recommendations thereon.

Lieutenant  
Governor in  
Council may  
confirm plan  
or approve  
modifications

(2) The Lieutenant Governor in Council may confirm the development plan or may approve the plan with such modifications as the Lieutenant Governor in Council considers desirable, and thereupon the confirmed plan or the modified plan as the case may be is the development plan for the area defined in it.

Continuing  
review of  
plan

(3) Subsections (1) and (2) apply with necessary modifications to the confirmed or modified development plan, and so on at intervals of not greater than five years, to the end that every development plan shall be subject to continuing review and if desirable, modification, at such periodic intervals. 1973, c. 51, s. 14.

Power to  
acquire land

R.S.O. 1980,  
c. 148

**15.**—(1) For the purposes of developing any feature of a development plan, the Minister may, for and in the name of Her Majesty, acquire by purchase, lease or otherwise, or, subject to the *Expropriations Act*, without the consent of the owner, enter upon, take and expropriate and hold any land or interest therein within the area covered by the plan, and sell, lease or otherwise dispose of any such land or interest therein.

Power of  
designated  
minister

(2) The Lieutenant Governor in Council may designate any minister of the Crown in respect of any land acquired under subsection (1), and thereupon the minister so designated may, for the purpose of developing any feature of the development plan,

(a) clear, grade or otherwise prepare the land for development or may construct, repair or improve buildings, works and facilities thereon; or

(b) sell, lease or otherwise dispose of any of such land or interest therein. 1973, c. 51, s. 15.

**16.** Where a municipality is invited to submit proposals to the Minister under section 11 to resolve a conflict between a local plan or zoning by-law and a development plan or is required under section 13 to prepare and adopt a local plan or pass a zoning by-law or by-laws, the Minister may, out of the moneys appropriated therefor by the Legislature, make grants to any such municipality towards the costs of preparing such proposals, plans or by-laws or towards those expenditures incurred in preparing local plans and zoning by-laws which are rendered invalid by a development plan. 1973, c. 51, s. 16.

**17.** Where a development plan is in effect, the Minister may, out of the moneys appropriated therefor by the Legislature, provide financial assistance to any person, organization or corporation, including a municipal corporation, undertaking any policy or program that implements the plan. 1973, c. 51, s. 17.

**18.** This Act does not apply to the Niagara Escarpment Planning Area established under the *Niagara Escarpment Planning and Development Act*, except as otherwise provided under that Act. 1973, c. 51, s. 18.

Grants

Financial  
assistanceApplication  
of Act to  
R.S.O. 1980,  
c. 316





## CHAPTER 355

## Ontario School Trustees' Council Act

## 1. In this Act,

Interpre-  
tation

- (a) "Council" means the Ontario School Trustees' Council;
- (b) "member association" means an association that is a member of the Council;
- (c) "school board" means a board of education, public school board, secondary school board, Roman Catholic separate school board, or Protestant separate school board. 1978, c. 99, s. 1.

2.—(1) The Ontario School Trustees' Council, a corporation established under *The Ontario School Trustees' Council Act, 1953*, is continued.

Council  
continued  
1953, c. 77

(2) The Council may provide by by-law for the admission of associations of school boards and associations of school trustees as members of the Council.

Member  
associations

(3) Each member association may appoint persons to represent it on the Council in such manner and numbers as are provided for in the by-laws of the Council, and the number of councillors shall be the same for each member association.

Members  
of Council

(4) The persons representing member associations on the Council who are in office immediately before this Act comes into force shall continue in office as councillors until their successors are appointed in accordance with this Act and the by-laws of the Council. 1978, c. 99, s. 2.

Continuation  
of  
membership

## 3.—(1) The objects of the Council are,

Objects

- (a) to promote and advance the cause of education;
- (b) to provide a medium for communicating to the Ministry of Education and to The Ontario Teachers' Federation the considered views of the member associations on educational and administrative matters within the jurisdiction of school trustees

on all matters of mutual concern to the member associations;

- (c) to work co-operatively for the mutual benefit of all member associations, to consider matters relating to education and school administration which are of common interest to the member associations, to encourage better understanding between the trustees and the public, and to work for continued improvement in the educational system.

Objection  
to dealing  
with certain  
matters

(2) Where, at a meeting of the councillors, a councillor objects to the Council's dealing with a matter on the grounds that to do so would be detrimental to the best interests of the member association that he represents, the Council may discuss the matter but shall not reach a decision or make a recommendation or take other action on the matter without the consent of the member association. 1978, c. 99, s. 3.

Executive  
Committee  
of the  
Council

4.—(1) There shall be an Executive Committee composed of persons elected by the councillors from among themselves in such numbers and manner as is provided in the by-laws.

Repre-  
sentative  
membership

(2) The membership of the Executive Committee shall contain equal representation from the councillors appointed by each member association.

Duties and  
powers

(3) The Executive Committee is responsible for carrying on the general business of the Council and may,

- (a) acquire and hold in the name of the Council such real and personal property as may be necessary for the purposes of the Council and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;

- (b) invest the funds of the Council in any securities in which a trustee is authorized to invest money under the *Trustee Act*;

- (c) make such grants as it considers advisable to organizations having the same or like objects as the Council. 1978, c. 99, s. 4.

R.S.O. 1980,  
c. 512

By-laws

5. The Council may from time to time pass such by-laws as are considered necessary for conducting its affairs and carrying out its objects. 1978, c. 99, s. 5.

## CHAPTER 356

### Ontario Society for the Prevention of Cruelty to Animals Act

**1.** In this Act,

Interpre-  
tation

- (a) “animal” includes a domestic fowl or a bird that is kept as a pet;
- (b) “Board” means the Animal Care Review Board;
- (c) “distress” means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;
- (d) “veterinarian” means a person registered under the *Veterinarians Act*. 1968-69, c. 89, s. 1.

R.S.O. 1980,  
c. 522

**2.** The Ontario Society for the Prevention of Cruelty to Animals, a body politic and corporate incorporated by *An Act to Incorporate the Ontario Society for the Prevention of Cruelty to Animals*, being chapter 124 of the Statutes of Ontario, 1919, is continued. 1955, c. 58, s. 2.

Society  
continued  
1919, c. 124

**3.** The object of the Society is to facilitate and provide for the prevention of cruelty to animals and their protection and relief therefrom. 1955, c. 58, s. 3.

Object

**4.** The Society shall consist of class A members, being affiliated societies, class B members, being individual members, and Class C members, being honorary members, and each class has such rights and obligations as the by-laws of the Society prescribe. 1955, c. 58, s. 4.

Membership

**5.** The affairs of the Society shall be controlled and managed by a board of directors and by an executive committee, both of which shall be composed and have such powers and duties as the by-laws of the Society prescribe. 1955, c. 58, s. 5.

Board of  
directors;  
executive  
committee

**6.** The Society shall have such officers with such powers and duties as the by-laws of the Society prescribe. 1955, c. 58, s. 6.

Officers

By-laws

**7.**—(1) The Society may pass such by-laws, not contrary to law, as it considers necessary for the control and management of its affairs and the carrying out of its object.

approval

(2) No by-law of the Society is valid or shall be acted upon until it has been approved by a majority of the votes cast in accordance with the by-laws of the Society at an annual or special general meeting.

annulment

(3) The Lieutenant Governor in Council may annul any by-law of the Society. 1955, c. 58, s. 7.

Powers

**8. The Society,**

- (a) may acquire and hold as purchasers, donees, devisees or legatees, or in any other capacity, any interest in real estate;
- (b) may accept, receive and hold gifts, bequests or subscriptions of personal estate;
- (c) may grant, lease, bargain for, mortgage, sell, assign or otherwise dispose of any of its real or personal estate;
- (d) may erect, construct, equip and maintain such buildings and works as it considers advisable for its purposes; and
- (e) may do all such other matters and things as it considers advisable for carrying out its object. 1955, c. 58, s. 8.

Exemption  
of property  
from  
taxation

**9.** The lands and buildings of the Society are exempt from taxation except for local improvements and school purposes so long as they are held, used and occupied for the purposes of the Society. 1955, c. 58, s. 9.

Prohibition

**10.** No society, association or group of individuals, whether incorporated or unincorporated, that is established after the 30th day of May, 1955 shall profess to function as a society having for its object the welfare of or the prevention of cruelty to animals unless it is incorporated and becomes affiliated with the Society in accordance with the by-laws of the Society. 1955, c. 58, s. 10.

Inspectors  
and agents  
to have  
powers of  
constable

**11.**—(1) For the purposes of the enforcement of this or any other act or law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the Society has and may exercise any of the powers of a police officer.



(2) Every inspector and agent of an affiliated society who has been approved by the Society may exercise any of the powers of an inspector or agent of the Society under this Act.

Inspectors  
and agents  
of affiliates

(3) In any part of Ontario in which the Society or an affiliated society does not function, any police officer having jurisdiction in that part has and may exercise any of the powers of an inspector or agent of the Society under this Act. 1955, c. 58, s. 11.

Local police  
powers

**12.**—(1) Where a justice of the peace is satisfied by information on oath in Form 1 that there are reasonable grounds for believing that there is in any building or place, other than a public place, an animal that is in distress, he may at any time issue a warrant in Form 2 under his hand authorizing an inspector or an agent of the Society named therein to enter therein either by himself or accompanied by a veterinarian and inspect the building or place and all animals found therein for the purpose of ascertaining whether there is therein any animal in distress.

Search  
warrant

(2) Where an inspector or agent of the Society observes an animal in immediate distress, he may enter, without warrant, any premises, building or place other than a dwelling place either by himself or accompanied by a veterinarian for the purposes of subsections (3) and (5) and sections 13 and 14.

Entry  
without  
warrant

(3) A veterinarian who has entered a building or place with an inspector or an agent of the Society may examine any animal in the building or place for the purpose of ascertaining whether the animal is in distress.

Authority of  
veterinarian  
to inspect  
animals

(4) Every warrant issued under subsection (1) shall be executed between sunrise and sunset unless the justice by the warrant authorizes the inspector or an agent of the Society to execute it at night.

When  
warrant  
to be  
executed

(5) Where an inspector or an agent of the Society has entered any building or place pursuant to this Act and finds therein an animal in distress he may, in addition to any other action he is authorized to take under this Act, supply the animal with food, care or treatment. 1968-69, c. 89, s. 2, *part*.

Authority  
to supply  
necessaries  
to animals

**13.**—(1) Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

Order to  
owner of  
animals, etc.

- (a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress;  
or

- (b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to  
be in  
writing

(2) Every order under subsection (1) shall be in writing and shall have printed or written thereon the provisions of subsections 17 (1) and (2).

Service  
of order

(3) Every order under subsection (1) shall be served upon the owner or custodian personally or by registered mail addressed to the owner or custodian at his last known place of address.

Time for  
compliance  
with order

(4) Where an inspector or an agent of the Society makes an order under subsection (1), he shall specify in the order the time within which any action required by the order shall be performed.

Idem

(5) Every person who is served with an order under subsection (3) shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed.

Authority  
to enter  
building or  
place, etc.

(6) Where an order made under subsection (1) remains in force, an inspector or an agent of the Society may, for the purpose of determining whether the order has been complied with, enter without a warrant any building or place in which the animal is located and inspect the animal and the building or place where the animal is kept and if, in his opinion, the order has been complied with, he shall revoke the order by notice in writing served forthwith upon the owner or custodian in the manner prescribed for service of an order in subsection (3). 1968-69, c. 89, s. 2, *part*.

Taking  
possession  
of animal

**14.**—(1) An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where,

- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
- (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
- (c) an order respecting the animal has been made under section 13 and the order has not been complied with.

Destruction  
of animal

(2) An inspector or an agent of the Society may destroy an animal,

(a) with the consent of the owner; or

(b) where a veterinarian has examined the animal and has advised the inspector or agent in writing that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering.

(3) Where an inspector or an agent of the Society has removed or destroyed an animal under subsection (1) he shall forthwith notify the owner or custodian of the animal, if known, of his action by notice in writing served upon the owner or custodian in the manner prescribed for service of an order in subsection 13 (3). 1968-69, c. 89, s. 2, *part*. Notice

**15.**—(1) Where an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve upon the owner or custodian of the animal a statement of account respecting the food, care or treatment by mailing the same by registered mail to the owner or custodian at his last known place of address and the owner or custodian is, subject to subsection 17 (6), thereupon liable for the amount specified in the statement of account. Liability of owner for expenses

(2) Where the owner or custodian refuses to pay an account for which he is liable under subsection (1) within five days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto. 1968-69, c. 89, s. 2, *part*. Power to sell

**16.**—(1) The board known as the Animal Care Review Board is continued and shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure. Board continued

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman, vice-chairman

(3) A majority of the members of the Board constitutes a quorum. Quorum

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. 1968-69, c. 89, s. 2, *part*. Remuneration of members

**17.**—(1) Where the owner or custodian of any animal considers himself aggrieved by an order made under subsection 13 (1) or by the removal of an animal under subsection 14 (1), he may, Appeal to Board

within five days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chairman of the Board.

Application  
for  
revocation  
of order

(2) Where, in the opinion of the owner or custodian of an animal in respect of which an order has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chairman of the Board.

Notice of  
hearing

(3) Within five days of the receipt of a notice under subsection (1) or (2), the chairman of the Board shall,

- (a) fix a time, date and place at which the Board will hear the matter; and
- (b) notify the Society and the person who issued the notice of the time, date and place fixed under clause (a) either personally or by registered mail addressed to the Society at its head office and to the person who issued the notice at his last known place of address.

Date of  
hearing

(4) The date fixed for a hearing shall be not more than ten days after the receipt of a notice under subsection (1) or (2).

Procedure  
at hearing

(5) At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or an agent.

Powers  
of Board

(6) After a hearing or, with the consent of the Society and the person who issued the notice under subsection (1) or (2), without a hearing, the Board may,

- (a) respecting an order made under subsection 13 (1), confirm, revoke or modify the order appealed against;
- (b) respecting the removal of an animal under subsection 14 (1), order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 13 (1); or
- (c) order that the whole or any part of the cost of complying with an order or providing food, care or treatment to an animal be paid by the Society.

Notice of  
decision

(7) Notice of the decision of the Board made under subsection (6), together with reasons in writing for its decision, shall be served forthwith upon the Society and the owner or custodian in the manner prescribed for service of a notice in subsection (3). 1968-69, c. 89, s. 2, *part*.



**18.**—(1) The Society or the owner or custodian may appeal the decision of the Board to a judge of the county or district court of the county or district in which the animal was at the time the order or seizure was made. Appeal

(2) The appeal shall be made by filing a notice of appeal with the clerk of the court and serving a copy thereof on the other parties before the Board within fifteen days after the notice of the Board's decision is served on the appellant under subsection 17 (7). Notice of appeal

(3) The appellant or any person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal. Date of hearing

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he considers appropriate, and the decision of the judge is final. 1968-69, c. 89, s. 2, *part*. Decision

**19.** No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act. 1968-69, c. 89, s. 2, *part*. Inspector, etc., not personally liable

## FORM 1

*Ontario Society for the Prevention of  
Cruelty to Animals Act*

(Section 12 (1) )

## INFORMATION TO OBTAIN A WARRANT

Province of Ontario

County of

The information of ..... of .....  
 in the County (or District, etc.) of ..... taken the  
 ..... day of ..... in the year .....  
 before me, ..... a Justice of the Peace for  
 the County (or District, etc.) of ..... who  
 says that he has reasonable grounds for believing that there is an animal in  
 distress on the premises of .....  
 of ..... in the County (or District, etc.) of .....  
 .....  
*(here add the grounds for belief, whatever they may be).*

Wherefore (he) prays that a warrant may be granted to him (and to .....  
 ..... a veterinarian of the .....  
 of ..... in the County (or District, etc.) of ..... )  
 to inspect the premises of the said .....  
 and all animals found therein for the purposes of ascertaining whether there  
 is therein any animal in distress.

Sworn, etc. ....

J.P. for (Name of County or District)

1968-69, c. 89, s. 3, *part.*

FORM 2

*Ontario Society for the Prevention of  
Cruelty to Animals Act*

(Section 12 (1) )

WARRANT

Province of Ontario  
County of

To ....., an inspector or  
an agent to The Ontario Society for the Prevention of Cruelty to Animals  
(and to .....  
a veterinarian of the ..... of .....  
in the County (or District, etc.) of .....)

Whereas it appears on the oath of .....  
of the ..... of ..... in the County  
(or District, etc.) of ..... that there are  
reasonable grounds for believing that there is an animal in distress on the  
premises of ..... of the .....  
in the County (or District, etc.) of .....

This is therefore to authorize you to enter between the hours of (*as the Justice  
directs*) into the said premises and to inspect the premises and all animals found  
therein for the purpose of ascertaining whether there is therein any animal in  
distress.

Dated at ....., in the said County (or District,  
etc.) of ..... this ..... day of .....  
in the year .....

.....  
J.P. for (*Name of County or District*)

1968-69, c. 89, s. 3, *part.*





## CHAPTER 357

### Ontario Telephone Development Corporation Act

**1.** In this Act,

Interpre-  
tation

(a) "Authority" means the Ontario Telephone Authority;

(b) "Board" means the Ontario Municipal Board;

(c) "Corporation" means The Ontario Telephone Development Corporation. R.S.O. 1970, c. 330, s. 1.

**2.**—(1) The Ontario Telephone Development Corporation <sup>Corporation continued</sup> is continued as a corporation without share capital having as its object the improvement of telephone systems in Ontario.

(2) The Corporation shall be composed of not fewer than <sup>Membership</sup> three and not more than five members, as the Lieutenant Governor in Council may from time to time determine, who shall hold office as members during the pleasure of the Lieutenant Governor in Council and who shall be such officers in the public service of Ontario or such members of the Authority as the Lieutenant Governor in Council may from time to time appoint.

(3) The members for the time being of the Corporation <sup>Board of directors</sup> form and are its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board of directors.

(4) Subject to the regulations, the affairs of the Cor- <sup>Management</sup> poration are under the management and control of the board of directors and in the absence of the chairman, or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

(5) The Corporation may pay to its directors such re- <sup>Remuneration of directors</sup> muner- ation of tion and expense allowances as may be from time to time fixed by the Lieutenant Governor in Council.

(6) The head office of the Corporation shall be at the City of <sup>Head office</sup> Toronto. R.S.O. 1970, c. 330, s. 2.

Not to be  
carried on  
for gain

**3.** The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its objects. R.S.O. 1970, c. 330, s. 3.

Powers

**4.**—(1) To carry out its objects, the Corporation has power, subject to the regulations, if any,

- (a) to acquire by purchase, lease or otherwise existing telephone systems or parts thereof;
- (b) to construct, operate and maintain new telephone systems and telephone systems acquired by it, and extensions of its telephone systems;
- (c) to sell its telephone systems or any part or parts thereof;
- (d) to purchase and sell shares of companies operating telephone systems or incorporated for the purpose of operating telephone systems.

Expropria-  
tion of  
telephone  
systems

(2) Where the Corporation proposes to expropriate a telephone system or any part thereof, it may offer to purchase the system or part at a fixed price and if the owner does not accept the price so offered, within one month from the date of the offer, the Corporation may, with the consent of the Authority, proceed to expropriate the system or part thereof in accordance with the *Expropriations Act*. R.S.O. 1970, c. 330, s. 4.

R.S.O. 1980,  
c. 148

Payments re  
debentures

**5.**—(1) Where,

- (a) the Corporation acquires, by purchase or expropriation, a municipal telephone system that is subject to sections 27 to 86 of the *Telephone Act*; and
- (b) debentures of the municipality issued in respect of the system are then outstanding and unpaid,

R.S.O. 1980,  
c. 496

the Corporation and the municipality may agree, or the Board in determining the compensation may order the Corporation to pay to the municipality before the due date all amounts of principal and interest becoming due upon such outstanding debentures, or upon such of them as the agreement or order provides.

Subscribers'  
lands  
released  
from debt

(2) Where the municipal telephone system purchased or expropriated by the Corporation is subject to sections 35 to 86 of the *Telephone Act* and an agreement or order is made under

subsection (1), any debentures theretofore issued in respect of the system and outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them.

(3) Where an agreement or order is made under sub-<sup>Special rates</sup>section (1) in respect of any debentures outstanding and unpaid, the municipality shall raise in each year during the currency of all outstanding debentures issued in respect of the system by a special rate on all the rateable property in the municipality, the sums of principal and interest payable in respect of the debentures in such year to the extent that such sums are not provided out of the proceeds of the sale and the moneys payable by the Corporation under the agreement or order. R.S.O. 1970, c. 330, s. 5.

**6.**—(1) The Corporation, in addition to its powers under sub-<sup>Acquisition of land</sup>section 4 (2), has power,

- (a) to acquire by purchase, lease or otherwise;
- (b) without the consent of the owner, to enter upon, take and expropriate; and
- (c) to sell or otherwise dispose of,

any land or any interest in land. R.S.O. 1970, c. 330, s. 6 (1).

(2) The Corporation in the exercise of its power to take <sup>Expropria-  
tion</sup>land compulsorily has all the powers conferred by the <sup>R.S.O. 1980,  
c. 279</sup>*Ministry of Government Services Act* on the Minister of Government Services in relation to a public work, and in the application of this section where the words “the Minister”, “the Ministry” or “the Crown” appear in such Act they, where the context permits, mean the Corporation, and the taking of such land by the Corporation shall be deemed to be for the public purposes of Ontario. R.S.O. 1970, c. 330, s. 6 (2); 1972, c. 1, s. 1; 1973, c. 2, s. 2.

(3) The Corporation shall proceed in the manner provided by <sup>Procedure</sup>the *Expropriations Act*. R.S.O. 1970, c. 330, s. 6 (3). <sup>R.S.O. 1980,  
c. 148</sup>

**7.**—(1) To carry out its objects, the Corporation has <sup>Borrowing  
powers</sup>power, with the approval of the Lieutenant Governor in Council and subject to the regulations, to raise from time to time, by way of loan, such sums of money as it

considers expedient, and such loans may be made in any or all of the following ways or partly in one and partly in another or others:

debentures

- (a) by the issue and sale of debentures of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant Governor in Council considers expedient and as the regulations may provide;

bills and notes

- (b) by the issue and sale of treasury bills or notes of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant Governor in Council considers expedient and as the regulations may provide; and

temporary loans

- (c) by temporary loans as the Lieutenant Governor in Council considers expedient and as the regulations may provide.

Refunding of loans, etc.

(2) The Corporation has power, with the approval of the Lieutenant Governor in Council and subject to the regulations, to raise from time to time, by way of loan and by any of the ways set forth in subsection (1), any sum or sums of money for any one or more of the following purposes:

- (a) payment, retirement, refunding or renewal of the whole or any part of any debentures, bills or notes issued by the Corporation under clause (1) (a) or (b); and
- (b) payment, retirement, refunding or renewal of the whole or any part of any temporary loan made by the Corporation under clause (1) (c).

Debentures may be redeemable before maturity

(3) Debentures issued by the Corporation may be expressed to be redeemable, at the option of the Corporation, on any date prior to maturity according to the mode, terms, periods, times and places of redemption approved by the Lieutenant Governor in Council and as the regulations may provide.

Debentures to state source of authorization

(4) Every debenture, bill or note issued by the Corporation shall contain a statement in the body thereof that it is issued under the authority of this Act and no debenture, bill or note purporting to be issued by the Corporation is valid unless such statement is so contained.



(5) Every advertisement for the sale by the Corporation of any of its debentures, bills or notes shall contain a statement that the issue and sale of the debentures, bills or notes are made under the authority of this Act. Advertisements of sale to state source of authorization

(6) Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board may require. R.S.O. 1970, c. 330, s. 7. Lost debentures

8.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by, or of any temporary loan made to the Corporation under the authority of this Act. Guarantee of payment by Ontario

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. Form of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever. Validity of guaranty

(4) Any debenture, bill or note issued by, or temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 330, s. 8. Guaranteed debentures, etc.

9. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1970, c. 330, s. 9. Trustees, etc., investments in debentures

10. The books and records of the Corporation shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate. R.S.O. 1970, c. 330, s. 10. Audit

11.—(1) The Corporation shall make a report annually to the member of the Executive Council to whom the administration of this Act is assigned and to the Authority, and such report shall contain a financial statement certified by the auditor and such other matters relating to the work of the Corporation as may appear to be of public interest. R.S.O. 1970, c. 330, s. 11 (1). Report

## Tabling

(2) The member of the Executive Council who is responsible for the administration of this Act shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 102.

## Regulations

**12.** The Lieutenant Governor in Council may make regulations governing,

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the issue and sale of debentures, bills or notes and the making of temporary loans by the Corporation;
- (c) the payment, retirement, refunding or renewal of debentures, bills or notes issued and loans made by the Corporation;
- (d) the redemption before maturity of any debentures issued by the Corporation;
- (e) the registration of debentures issued by the Corporation and the keeping of debenture registers in connection therewith;
- (f) the guarantee of payment by the Province of Ontario of any debentures, bills or notes issued and loans made by the Corporation, and the form and manner of execution of any guaranty of payment;
- (g) the acquisition of existing telephone systems by the Corporation;
- (h) the construction, operation and maintenance of telephone systems, and extensions thereof, by the Corporation;
- (i) the sale of its telephone systems, or any part or parts thereof, by the Corporation;
- (j) the purchase and sale by the Corporation of shares of companies operating telephone systems or incorporated for the purpose of operating telephone systems;
- (k) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 330, s. 12.

**13.**—(1) Except where inconsistent with this Act, the *Telephone Act* applies to the Corporation and its undertaking. Application of R.S.O. 1980, c. 496

(2) The *Corporations Act* does not apply to the Corporation. R.S.O. 1980, c. 95 not applicable

**14.** This Act shall be administered by the member of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. Administration of Act R.S.O. 1970, c. 330, s. 14.





## CHAPTER 358

Ontario Transportation Development  
Corporation Act

## PART I

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means The Ontario Transportation Development Corporation;

(c) "equity share" has the same meaning as in the *Business Corporations Act*;R.S.O. 1980,  
c. 54

(d) "Minister" means the Minister of Transportation and Communications;

(e) "resident Canadian" has the same meaning as in the *Business Corporations Act*;

(f) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics. 1973, c. 66, s. 1.

2. Except as herein otherwise provided, the *Business Corporations Act* applies to the Corporation. 1973, c. 66, s. 2.

Application  
of  
R.S.O. 1980,  
c. 54

## PART II

THE ONTARIO TRANSPORTATION DEVELOPMENT  
CORPORATION

## INCORPORATION

3.—(1) The corporation with share capital known as The Ontario Transportation Development Corporation is continued.

Corporation  
continued

(2) There shall be a Board of Directors of the Corporation consisting of nine members and the first directors of the Corporation shall be appointed by the Lieutenant Governor

Board of  
Directors

in Council to hold office until their successors are elected by the shareholders of the Corporation.

Seat in  
Assembly not  
vacated  
R.S.O. 1980,  
c. 235

(3) Notwithstanding anything in the *Legislative Assembly Act*, a member of the Assembly who is appointed or elected as a member of the Board is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly. 1973, c. 66, s. 3.

#### OBJECTS OF THE CORPORATION

Corporate  
objects

#### 4. The objects of the Corporation are,

- (a) to acquire, develop, adapt, use and license patents, inventions, designs and systems for all or any part of transit systems related to public transportation and rights and interests therein or thereto;
- (b) to encourage and assist in the creation, development and diversification of Canadian businesses, resources, properties and research facilities related to public transportation;
- (c) to undertake the design, development, construction, testing, operation, manufacture and sale of all or any part of transit systems related to public transportation;
- (d) to test or operate and to provide services and facilities for all or any part of transit systems related to public transportation and in connection therewith to build, establish, maintain and operate, in Ontario or elsewhere, alone or in conjunction with others, either on its own behalf or as agent for others, all services and facilities expedient or useful for such purposes, using and adapting any improvement or invention for any means of public transportation;
- (e) to manufacture vehicles and control, propulsion and guideway systems and their appurtenances and other instruments and plant used in connection with transit systems related to public transportation as the Corporation may consider advisable and to acquire, purchase, sell, license or lease the same and rights relating thereto, and to build, establish, construct, acquire, lease, maintain, operate, sell or

let all or any part of transit systems related to public transportation in Ontario or elsewhere; and

- (f) to carry on any other trade or business that, in the opinion of the Board, can be carried on advantageously by the Corporation in connection with or as ancillary to the carrying out of the objects of the Corporation set out in clauses (a), (b), (c), (d) and (e). 1973, c. 66, s. 4.

#### CAPITALIZATION

**5.—**(1) The authorized capital of the Corporation is <sup>Authorized capital</sup> divided into,

- (a) 20,000,000 common shares without par value, to be issued for such consideration as the Board may from time to time determine; and
- (b) 50,000 special shares with a par value of one hundred dollars each, which may be issued in one or more series and, subject to the provisions of subsections (2), (3), (4) and (5) and to the filing of the statement and the issuance of the certificate in respect thereof referred to in subsection 29 (2) of the *Business Corporations Act*, the Board may fix from time to time before the issuance of a series the number of shares that is to comprise each series and the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to each series of special shares. <sup>R.S.O. 1980, c. 54</sup>

(2) The holders of the special shares shall not be entitled <sup>Voting</sup> to vote at any meetings of the shareholders of the Corporation other than the meetings referred to in subsection (5) but shall be entitled to notice of meetings of shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof and at all meetings of shareholders the holders of common shares shall be entitled to one vote for each common share held by them.

(3) The special shares of each series shall rank on a parity <sup>Ranking of series of shares</sup> with the special shares of every other series with respect to payment of dividends and distribution of assets in the event of the liquidation, dissolution or winding up of the Corporation whether voluntary or involuntary.

(4) If the special shares of any series are made redeemable <sup>Redemption of shares</sup> or purchasable for cancellation by the Corporation, the

price at which such shares may be redeemed or purchased for cancellation shall not exceed the amount paid-up on such shares together with a premium of not more than 20 per cent of that amount and any dividends accrued and unpaid on such shares.

Variation  
of rights  
of special  
shareholders

(5) Subject to the provisions of subsections (2), (3) and (4), the Board, by a special resolution, may delete or vary any preference, right, condition, restriction, limitation or prohibition attaching to a series of the special shares but the resolution is not effective until,

(a) it has been confirmed by at least two-thirds of the votes cast at a meeting of the holders of such series of shares duly called for that purpose and at the meeting the holders of shares of such series shall be entitled to one vote in respect of each share held of such series; and

R.S.O. 1980,  
c. 54

(b) a certificate of amendment has been issued pursuant to section 182 of the *Business Corporations Act*, 1973, c. 66, s. 5.

#### HEAD OFFICE

Head  
office

**6.** The head office of the Corporation shall be in The Municipality of Metropolitan Toronto. 1973, c. 66, s. 6.

#### BOARD OF DIRECTORS

Majority  
to be  
resident  
Canadians

**7.** A majority of the members of the Board shall at all times be resident Canadians. 1973, c. 66, s. 7.

#### BORROWING POWERS

Borrowing  
powers

**8.** The Board may from time to time,

- (a) borrow money upon the credit of the Corporation;
- (b) issue, sell or pledge debt obligations of the Corporation;
- (c) charge, mortgage, hypothec or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the Corporation including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed or other debt or liability of the Corporation; and



- (d) delegate the powers conferred on it under this section to such directors or officers of the Corporation and to such extent and manner as is set out in the by-laws or in specific resolutions of the Board. 1973, c. 66, s. 8.

#### REGISTERS

**9.**—(1) The Corporation shall appoint a registrar to keep at a location in the Province of Ontario the register of security holders of the Corporation.

(2) The Corporation shall appoint a transfer agent to keep at a location in the Province of Ontario the register of transfers of all securities issued by the Corporation in registered form. 1973, c. 66, s. 9.

#### VOTING OF SHARES

**10.**—(1) The voting rights pertaining to any shares of the Corporation shall not be exercised when the shares are held in contravention of this Act or the by-laws of the Corporation.

(2) The validity of a transfer of shares of the Corporation that has been recorded in a register of transfers of the Corporation or the validity of an allotment of shares of the Corporation is not affected by the holding of such shares in contravention of this Act or the by-laws of the Corporation.

(3) If the voting rights pertaining to any shares of the Corporation that are held in contravention of this Act or the by-laws of the Corporation are exercised at any meeting of the shareholders of the Corporation, no proceeding at that meeting is void by reason thereof, but any such proceeding, matter or thing is, at any time within one year from the date of commencement of the meeting at which such voting rights were exercised, voidable at the option of the directors and shareholders by a by-law duly passed by the Board and sanctioned by two-thirds of the votes cast at a special general meeting of the shareholders called for the purpose. 1973, c. 66, s. 10.

#### PURCHASE OF COMMON SHARES

**11.** Subject to the provisions of the *Business Corporations Act*, the Corporation may purchase any of its issued common shares. 1973, c. 66, s. 11.

NON-APPLICATION OF CERTAIN PROVISIONS OF  
THE BUSINESS CORPORATIONS ACT

Provisions  
not to apply  
R.S.O. 1980,  
c. 54

**12.** Except for the purposes of subsection 5 (5), the provisions of sections 180 to 245 of the *Business Corporations Act* do not apply to the Corporation and the Corporation shall not enter into any arrangement, amalgamation, continuation, winding up or dissolution within the meaning of the *Business Corporations Act*. 1973, c. 66, s. 12.

## GENERAL

Not Crown  
agency  
R.S.O. 1980,  
c. 106

**13.** The Corporation is not an agent of Her Majesty nor a Crown agency within the meaning of the *Crown Agency Act*. 1973, c. 66, s. 13.

Interpre-  
tation

**14.**—(1) In this section, “non-resident” means any person other than a resident Canadian, a corporation controlled by resident Canadians, Her Majesty in right of Canada, Ontario or any other province of Canada or an agent or nominee of Her Majesty.

Equity shares  
owned or  
controlled  
by non-  
residents

(2) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction shall not at any time exceed 10 per cent of the total number of issued and outstanding equity shares of the Corporation.

Limit of  
individual  
ownership of  
equity shares

(3) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by any person or over which he exercises control or direction shall not at any time exceed 5 per cent of the total number of issued and outstanding equity shares of the Corporation.

Idem

(4) Subsection (3) does not apply in respect of any equity shares of the Corporation beneficially owned by Her Majesty in right of Canada, Ontario or any other province of Canada or by an agent or nominee of Her Majesty.

Where person  
deemed  
beneficial  
owner of  
equity shares  
R.S.O. 1980,  
c. 54

(5) For the purposes of this section, a person shall be deemed to own beneficially any equity shares of the Corporation owned beneficially by any associate or affiliate of such person as such terms are defined in the *Business Corporations Act*.

Controlled  
corporation

(6) For the purposes of this section, a corporation is controlled by another corporation, individual or trust if it is in

fact effectively controlled by such other corporation, individual or trust, directly or indirectly, or through the holding of shares of the corporation or any other corporation, or through the holding of a significant portion of the preferred shares of a corporation or of the outstanding debt of a corporation or individual, or by any other means whether of a like or different nature. 1973, c. 66, s. 14.

**15.**—(1) The Corporation may, where authorized by a special resolution, Corporation may dispose of property

(a) sell, lease or otherwise dispose of all or substantially all of its property and liabilities to another body corporate,

(i) which has objects similar to those of the Corporation, and

(ii) of which, the beneficial ownership of equity shares is restricted to Her Majesty in right of Ontario, of any of the other provinces of Canada, or of Canada; and

(b) receive, in consideration of any property so disposed, securities of the body corporate together with the assumption by the body corporate of the liabilities of the Corporation.

(2) The Corporation may,

(a) transfer to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation receives under subsection (1); or

Corporation may transfer shares

(b) cause to be issued to the Minister to hold on behalf of Her Majesty in right of Ontario any equity shares that the Corporation is entitled to receive under subsection (1). 1975, c. 55, s. 1.

### PART III

#### ONTARIO PARTICIPATION

**16.**—(1) The Minister shall from time to time subscribe for, purchase and hold shares of the Corporation on behalf of Her Majesty in right of Ontario and such holdings at all times shall be a majority of the outstanding shares of the Corporation. Shares may be acquired by Ontario

Idem,  
registration  
and voting

(2) Shares of the Corporation purchased on behalf of Her Majesty in right of Ontario shall be registered in the books of the Corporation in the name of Her Majesty in right of Ontario as represented by the Minister and may be voted by the Minister or his duly authorized nominee on behalf of Her Majesty in accordance with such regulations as the Lieutenant Governor in Council may prescribe. 1973, c. 66, s. 15.

Authority  
to loan  
moneys to  
Corporation

**17.** The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Corporation and may acquire and hold debt obligations of the Corporation as evidence thereof. 1973, c. 66, s. 16.

## PART IV

### MISCELLANEOUS

Regulations

**18.** The Lieutenant Governor in Council may make regulations respecting any matter that he considers necessary relating to,

- (a) the voting by the Minister or his duly authorized nominee in respect of shares of the Corporation held by the Minister;
- (b) terms and conditions that shall apply to the making of loans to the Corporation by the Treasurer of Ontario. 1973, c. 66, s. 17.



## CHAPTER 359

### Ontario Unconditional Grants Act

1.—(1) In this Act,

Interpre-  
tation

(a) “area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in the *County of Oxford Act*; R.S.O. 1980,  
c. 365

(b) “commercial assessment” means the total of,

(i) the assessment for real property that is used as a basis for computing business assessment including the assessment for real property that is rented and is occupied or used by the Crown in right of Canada, or any province or any board, commission, corporation, or other agency thereof, or by any municipal or regional corporation or local board thereof,

(ii) the business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipelines,

according to the last revised assessment roll;

(c) “density” means the total number of residential properties in an area municipality divided by the hectares in the area municipality correct to three places of decimals;

(d) “hectares in the area municipality” means the area in hectares of the municipality, excluding property held in trust for a band or body of Indians and land covered by water, as certified by the Assessment Commissioner or Assessor;

(e) “lower tier municipality” means a city, town, village, township or improvement district;

- (f) "merged area" means a merged area as defined in an Act establishing a regional municipality;
- (g) "Minister" means the Minister of Intergovernmental Affairs;
- (h) "net levy" means the net general dollar levy as prescribed;
- (i) "prescribed" means prescribed by the regulations under this Act;
- (j) "regional municipality" means a metropolitan, regional or district municipality as defined in the Act establishing such a municipality and includes the County of Oxford;
- (k) "residential property" means land separately assessed under paragraph 2 of subsection 13 (2) of the *Assessment Act* upon which there is a building used or intended to be used as a residence;
- (l) "upper tier municipality" means a county or regional municipality. 1975, c. 7, s. 1 (1); 1978, c. 87, s. 43 (1).

R.S.O. 1980,  
c. 31

Population

- (2) For the purposes of this Act, population shall be determined in the manner prescribed. 1975, c. 7, s. 1 (2).

Per capita  
grants

**2.** In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows:

1. \$10 per capita.
2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.
3. \$15 per capita where a regional municipality is deemed to be a city for the purposes of the *Police Act*.
4. \$10 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with the *Police Act*. 1977, c. 7, s. 1, *part*.

R.S.O. 1980,  
c. 381

3. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of, Credit to area municipalities

(a) \$10;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

(c) \$15 where a regional municipality is deemed to be a city for the purposes of the *Police Act*; or

R.S.O. 1980,  
c. 381

(d) \$10 in relation to each area municipality to which paragraph 4 of section 2 applies. 1977, c. 7, s. 1, *part*.

4.—(1) For the purposes of this section, “municipality” means a city, town, village, township or improvement district but does not include an area municipality. Interpretation

(2) In each year, payments shall be made to each municipality in accordance with the population of that municipality and Schedule 2 of this Act. 1975, c. 7, s. 5 (1, 2). Payments to municipalities

(3) In each year, payments of \$10 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with the *Police Act*. 1977, c. 7, s. 2. Idem

5.—(1) For the purposes of this section, “municipality” means a city, town, village, township, improvement district, county or regional municipality. 1975, c. 7, s. 6 (1). Interpretation

(2) Where the Minister is of the opinion that property taxes in a municipality are unduly high or have been or may be unduly increased because of, Minister may make grants or loans

(a) a substantial loss of revenue previously available to a municipality;

(b) a change in legislation;

(c) an unforeseen commitment imposed on a municipality;

(d) expenditures or anticipated expenditures related to an amalgamation or annexation or to a change in the responsibility for the provision of services; or

- (e) circumstances beyond the control of a municipal council and of an unusual or special nature,

the Minister may, by order, make a grant or a loan to the municipality under such terms and conditions as the Minister considers necessary in the circumstances. 1980, c. 75, s. 1.

Transitional  
rates

**6.** Notwithstanding any provision in this or any other Act, where a lower tier municipality is affected by an annexation or amalgamation, the Minister may provide from time to time by order that, in the year or years and in the manner specified in the order, the council of the lower tier municipality shall levy, on the whole of the assessment for real property and business assessment according to the last revised assessment roll in any area of the municipality specified in the order, rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for the provisions of this section. 1980, c. 75, s. 2.

Interpre-  
tation

**7.—(1)** In this section,

- (a) “net county levy” means the amount required for county purposes including the sums required for any board, commission or other body, apportioned to each lower tier municipality by the county;
- (b) “net lower tier levy” means the amount required for lower tier purposes under section 164 of the *Municipal Act* including the sums required for any board, commission or other body excluding school purposes and sums included in the net regional levy or net county levy;
- (c) “net regional levy” means the amount required for general regional purposes including the sums required for any board, commission or other body but excluding school purposes apportioned to each area municipality and reduced by the amount credited to each area municipality under section 3;
- (d) “rateable property” includes business and other assessment made under the *Assessment Act*;
- (e) “residential and farm assessment” means the total assessment for real property according to the last revised assessment roll except the assessments for real property mentioned in subclauses 1 (1) (c) (i) and (iii);
- (f) “special lower tier levy” means an amount which is not included in the net lower tier levy, and

R.S.O. 1980,  
c. 302

R.S.O. 1980,  
c. 31



excludes amounts required for school purposes and sums included in the net regional levy, net county levy and special regional levy;

- (g) "special regional levy" means an amount apportioned by a regional municipality to one or more area municipalities that is not included in the net regional levy and excludes amounts required for school purposes.

(2) Each lower tier municipality shall levy, in accordance <sup>Levy</sup> with subsection (3), separate rates as applicable on commercial assessment and on residential and farm assessment in each year in respect of the,

- (a) net regional levy;
- (b) net county levy;
- (c) net lower tier levy;
- (d) special regional levy; and
- (e) special lower tier levy.

(3) The rates to be levied in each year for each separate <sup>Determina-  
tion of  
rates</sup> levy specified in subsection (2),

- (a) on residential and farm assessment shall be 85 per cent of the rates to be levied on commercial assessment; and
- (b) on commercial assessment shall be determined by multiplying the amount required for each such levy by 1,000 and dividing the product by 85 per cent of the sum of the residential and farm assessment plus the commercial assessment. 1975, c. 7, s. 7 (1-3).

(4) Notwithstanding subsection (2), except where there <sup>Apportionment  
among merged  
areas</sup> has been a different assessment generally of real property in an area municipality under section 63 of the *Assessment Act*, <sup>R.S.O. 1980,  
c. 31</sup> the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue. 1979, c. 10, s. 1 (1).

Levy by  
area  
municipality  
where different  
assessment  
generally under  
R.S.O. 1980,  
c. 31, s. 63

(5) Notwithstanding the provisions of any Act establishing a regional municipality, where there has been a different assessment generally of real property in an area municipality under section 63 of the *Assessment Act*, the rates levied by such area municipality shall be levied in accordance with subsection (2). 1979, c. 10, s. 1 (2).

Determina-  
tion of  
rates

(6) The rates to be levied in each merged area shall be determined in accordance with subsection (3). 1975, c. 7, s. 7 (6).

Resource  
equalization  
grants

**8.**—(1) In each year there shall be paid a resource equalization grant in respect of each lower tier municipality whose equalized assessment per capita in the preceding year is below such standard equalized assessment per capita as may be prescribed, and the amount of the grant shall be based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to the prescribed standard equalized assessment per capita as applied to the net levy of the lower tier municipality.

Payment of  
grants

(2) A grant payable under subsection (1) shall be paid to the lower tier municipality in respect of which it was determined and to the upper tier municipality within which that lower tier municipality is situate in the proportions prescribed, and the portion of the grant payable to the upper tier municipality in that year shall be deducted from the requisition or levy of that upper tier municipality upon that lower tier municipality in that year and the net amount shall be included in the levy of the lower tier municipality for purposes of section 158 of the *Municipal Act* and section 6 of this Act in that year. 1979, c. 111, s. 1.

R.S.O. 1980,  
c. 302

Equalized  
assessment  
of lower  
tier muni-  
cipality  
deemed  
increased

**9.**—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or for apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the current year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000. 1975, c. 7, s. 10 (1); 1979, c. 111, s. 3 (1).

Exclusion  
of taxes  
added  
under

R.S.O. 1980,  
c. 31, s. 33

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded the taxes added to the collector's roll under section 33 of the *Assessment Act* and the assessment on which such taxes are levied. 1975, c. 7, s. 10 (2).

General  
support  
grant

**10.** In each year there shall be paid a general support grant to each upper tier municipality and to each lower

tier municipality in an amount equal to 6 per cent, or such other percentage as may be prescribed, of the net levy of the municipality. 1975, c. 7, s. 15.

**11.** In each year there shall be paid a special support <sup>Special support grant</sup> grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario. 1977, c. 7, s. 11, *part.*

**12.** In each year there shall be paid to the Township of <sup>Idem</sup> Chisholm, the Township of Airy, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of such municipality. 1977, c. 7, s. 11, *part.*

**13.** The moneys required for the purposes of this Act <sup>Moneys</sup> shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 7, s. 18.

**14.—(1)** The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) prescribing anything that in this Act may be prescribed by regulation;
- (b) prescribing the conditions under which grants shall be made;
- (c) prescribing the method of calculating grants made under this Act and the conditions attached thereto;
- (d) prescribing the manner in which grants are to be made under this Act;
- (e) prescribing the manner in which population is to be determined for the purposes of this Act;
- (f) prescribing the forms and records to be used for the purposes of this Act or the regulations;
- (g) prescribing the area that is to comprise the northern part of Ontario;
- (h) providing for estimating the resource equalization grant payable in respect of a lower tier municipality and the portion thereof attributable to the upper tier municipality and providing for using such estimated amount in place of the actual amount pending the final determina-

tion of the actual amount. 1975, c. 7, s. 19 (1); 1979, c. 111, s. 5.

Regulations  
may be  
retroactive

(2) Regulations under subsection (1) may be made retroactive to a date not earlier than the 1st day of January, 1975. 1975, c. 7, s. 19 (2).

### SCHEDULE 1

DENSITY	AMOUNT PER CAPITA
0.375 and under	\$5.00
Over 0.375 to and including 0.75	4.00
Over 0.75 to and including 1.125	3.00
Over 1.125 to and including 1.5	2.00
Over 1.5 to and including 1.875	1.00
Over 1.875	Nil

1978, c. 87, s. 43 (2).

### SCHEDULE 2

#### POPULATION RANGE

#### RATE OF GRANT

0 - 5,000	\$7.00 × (Pop.)
5,001 - 10,000	\$ 35,000 + \$7.40 × (Pop. over 5,000)
10,001 - 15,000	\$ 72,000 + \$7.60 × (Pop. over 10,000)
15,001 - 20,000	\$ 110,000 + \$7.80 × (Pop. over 15,000)
20,001 - 25,000	\$ 149,000 + \$8.00 × (Pop. over 20,000)
25,001 - 50,000	\$ 189,000 + \$8.20 × (Pop. over 25,000)
50,001 - 75,000	\$ 394,000 + \$8.40 × (Pop. over 50,000)
75,001 - 100,000	\$ 604,000 + \$8.60 × (Pop. over 75,000)
100,001 - 200,000	\$ 819,000 + \$8.80 × (Pop. over 100,000)
200,001 or more	\$1,699,000 + \$9.00 × (Pop. over 200,000)

1977, c. 7, s. 12 (1).



## CHAPTER 360

### Ontario Universities Capital Aid Corporation Act

**1. In this Act,**

Interpre-  
tation

- (a) “college” means a college of applied arts and technology established under section 5 of the *Ministry of Colleges and Universities Act*, and includes Ryerson Polytechnical Institute established under *The Ryerson Polytechnical Institute Act, 1962-63*; R.S.O. 1980,  
c. 272  
1962-63,  
c. 128
- (b) “Corporation” means The Ontario Universities Capital Aid Corporation;
- (c) “Minister” means the Minister of Colleges and Universities;
- (d) “municipality” means a metropolitan, district or regional municipality and a county, city, town, village, township or improvement district, and “municipal” has a corresponding meaning;
- (e) “Treasurer of Ontario” means the Treasurer of Ontario and Minister of Economics;
- (f) “university” means a university in Ontario designated under this Act by the Minister. R.S.O. 1970, c. 331, s. 1; 1972, c. 1, s. 1; 1973, c. 65, s. 1.

**2. This Act applies,**

Application  
of Act

- (a) to all colleges;
- (b) to such universities as are designated by the Minister;
- (c) to the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art; and
- (d) to municipalities which issue debentures for public library purposes. R.S.O. 1970, c. 331, s. 2; 1971, c. 39, s. 1; 1973, c. 65, s. 2; 1974, c. 92, s. 1.

Corporation  
continued

**3.**—(1) The Ontario Universities Capital Aid Corporation is continued as a corporation without share capital, consisting of not fewer than three and not more than seven members appointed by the Lieutenant Governor in Council.

Chairman

(2) The Lieutenant Governor in Council shall designate one member of the Corporation to be chairman and one member to be vice-chairman of the Corporation.

Seal

(3) The Corporation shall have a seal which shall be adopted by resolution.

Quorum

(4) A majority of the members of the Corporation constitutes a quorum.

Application  
of  
R.S.O. 1980,  
c. 95

(5) The *Corporations Act* does not apply to the Corporation. R.S.O. 1970, c. 331, s. 3.

Objects

**4.** The objects of the Corporation are,

- (a) to purchase from colleges bonds or debentures issued by them for capital construction projects that have been approved by the Minister;
- (b) to purchase from universities bonds or debentures issued by them for capital construction projects that have been approved by the Minister;
- (c) to purchase from the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art bonds or debentures issued by them for capital construction projects that have been approved by the Lieutenant Governor in Council; and
- (d) to purchase from municipalities debentures issued by them for public library purposes approved by the Minister of Culture and Recreation. R.S.O. 1970, c. 331, s. 4; 1971, c. 39, s. 2; 1973, c. 65, s. 3; 1974, c. 92, s. 2; 1975, c. 18, s. 3 (1).

Manage-  
ment

**5.**—(1) Subject to the regulations made under this Act, the affairs of the Corporation are under the management and control of the members for the time being of the Corporation, and the chairman shall preside at all meetings of the Corporation and, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

Administra-  
tion

(2) The Corporation shall be assisted in the administration of its affairs by such officers and other employees in the public service of Ontario as the Treasurer of Ontario may assign for the purpose. R.S.O. 1970, c. 331, s. 5.

**6.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation considers requisite for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways,

Borrowing  
powers

- (a) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine; and
- (b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Corporation may determine.

(2) The purposes of the Corporation, without limiting the generality thereof, include,

Purposes  
of Cor-  
poration

- (a) the carrying out of the objects of the Corporation mentioned in section 4;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof, and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Sale, etc.,  
of Corpora-  
tion's  
securities

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that

Authoriza-  
tion

it is necessary to issue and sell such debentures, bills or notes for the purpose of the Corporation in the amount authorized is conclusive evidence to that effect.

Sealing,  
signing,  
etc.

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation.

Mechanical  
reproduction  
of seal and  
signature  
authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. R.S.O. 1970, c. 331, s. 6.

Securities of  
Corporation  
redeemable  
in advance

7. Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price and on such terms and conditions as the Corporation may determine at the time of the issue thereof. R.S.O. 1970, c. 331, s. 7.

Lost  
debentures

8. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the Corporation may provide for its replacement on such terms as to evidence and as to indemnity as the Corporation may require. R.S.O. 1970, c. 331, s. 8.

Guarantee  
of payment  
by Province

9.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.



(4) Any debenture, bill or note issued by or any temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1970, c. 331, s. 9.

Guaranteed debentures, etc., to be indefeasible

10. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1970, c. 331, s. 10.

Trustees, etc., investments in debentures

11.—(1) The Corporation, with the approval of the Lieutenant Governor in Council and subject to section 4 of the *Ministry of Colleges and Universities Act*, and to the regulations made under this Act, may from time to time purchase from any university bonds or debentures issued by the university for capital construction projects approved by the Minister. R.S.O. 1970, c. 331, s. 11 (1); 1973, c. 65, s. 4 (1).

Purchase of university debentures R.S.O. 1980, c. 272

(2) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations made under this Act, may from time to time purchase from any college bonds or debentures issued by the college for capital construction projects approved by the Minister. R.S.O. 1970, c. 331, s. 11 (2); 1973, c. 65, s. 4 (2).

Purchase of college debentures

(3) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations made under this Act, may from time to time purchase from the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art, bonds or debentures issued by such institutions for capital construction projects approved by the Lieutenant Governor in Council. 1974, c. 92, s. 3.

Purchase of debentures of the Art Gallery of Ontario, The Royal Ontario Museum or the Ontario College of Art

(4) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations made under this Act, may from time to time purchase from any municipality debentures issued by such municipality for public library purposes approved by the Minister of Culture and Recreation. 1973, c. 65, s. 4 (3), *part*; 1975, c. 18, s. 3 (2).

Purchase of municipal debentures

(5) The Corporation shall not purchase any municipal debentures under the authority of this Act until,

Approval and validation required

(a) the Ontario Municipal Board has issued its order pursuant to section 64 of the *Ontario Municipal*

R.S.O. 1980, c. 347

*Board Act* authorizing the municipality to proceed with the undertaking with respect to which the debentures are required; and

- (b) the municipality has had the debentures validated by the Ontario Municipal Board under sections 58, 59 and 60 of the *Ontario Municipal Board Act*. 1973, c. 65, s. 4 (3), *part*.

R.S.O. 1980,  
c. 347

Sale, etc.,  
of University  
debentures  
purchased by  
Corporation

**12.** The Corporation may, with the approval of the Treasurer of Ontario and subject to the regulations made under this Act, sell, hypothecate or otherwise dispose of any debentures purchased by the Corporation under the authority of this Act. R.S.O. 1970, c. 331, s. 12.

Audit

**13.** The books and accounts of the Corporation shall be audited annually by the Provincial Auditor, and he shall make an annual report of the audit to the Treasurer of Ontario, and the Treasurer shall table the report in the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 331, s. 13.

Sale of  
Corpora-  
tion's  
securities  
to Province  
and provin-  
cial advances  
to Cor-  
poration  
authorized

**14.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

Idem

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 331, s. 14.

Regulations

**15.** The Lieutenant Governor in Council may make regulations governing,

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the arrangements that the Corporation may make for the purchase of bonds or debentures under this Act;
- (c) the manner in which colleges, universities, municipalities, the Art Gallery of Ontario, The Royal Ontario Museum and the Ontario College of Art may

apply to the Corporation for its purchase of their bonds or debentures, and the forms, records and proofs to be furnished with such applications;

- (d) the conditions to be imposed with regard to the purchase by the Corporation of bonds or debentures under this Act;
- (e) the consideration and granting by the Corporation of applications for its purchase of bonds or debentures under this Act;
- (f) the sale, hypothecation or other disposition by the Corporation of any bonds or debentures purchased by the Corporation under this Act;
- (g) any matter necessary or advisable to carry out effectively the intent and purpose of this Act.  
R.S.O. 1970, c. 331, s. 15; 1971, c. 39, s. 4; 1974, c. 92, s. 4.

**16.** The Treasurer of Ontario shall administer this Act <sup>Administration of Act</sup> and the regulations made under this Act. R.S.O. 1970, c. 331, s. 16.





## CHAPTER 361

## Ontario Water Resources Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "borrowings of the Commission" includes all loans raised by the Commission by the issue of debentures or otherwise and all advances from the Province to the Commission;
- (c) "Commission" means the Ontario Water Resources Commission;
- (d) "Crown" means Her Majesty the Queen in right of Ontario;
- (e) "construction" includes reconstruction, improvement, extension, alteration, replacement and repairs, and "construct" has a corresponding meaning;
- (f) "cost" means,
  - (i) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister in his discretion may allocate to the project, or
  - (ii) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister and includes such engineering fees and other charges and expenses in connection with construction as the Minister may determine and such financing costs applicable to the project as the

Treasurer may determine and the Minister in his discretion may allocate to the project;

- (g) "date of completion" of a project means the date that is certified by the Minister as being the date on which the project is completed to the extent necessary to enable the Minister to supply water or to receive, treat and dispose of sewage, as the case may be;
- (h) "debentures" includes bonds, notes and other securities;
- (i) "Director" means a Director appointed under section 4;
- (j) "Environmental Assessment Board" means the Environmental Assessment Board under the *Environmental Assessment Act*;
- (k) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (l) "Minister" means the Minister of the Environment;
- (m) "Ministry" means the Ministry of the Environment;
- (n) "municipality" means the corporation of a county, metropolitan area, regional area, district area, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (o) "owner" means a municipality or person having authority to construct, maintain, operate, repair, improve or extend water works or sewage works;
- (p) "project" means water works or sewage works provided for in an agreement under section 34;
- (q) "Province" means the Province of Ontario;
- (r) "sewage" includes drainage, storm water, commercial wastes and industrial wastes and such other

matter or substance as is specified by regulations made under clause 44 (1) (i);

- (s) "sewage works" means any works for the collection, transmission, treatment and disposal of sewage, or any part of any such works, but does not include plumbing or other works to which regulations made under clause 44 (2) (a) apply;
- (t) "Treasurer" means the Treasurer of Ontario and Minister of Economics;
- (u) "water works" means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of any such works, but does not include plumbing or other works to which regulations made under clause 44 (2) (a) apply. R.S.O. 1970, c. 332, s. 1; 1972, c. 1, s. 70 (2, 3, 7-11); 1972, c. 1, s. 104 (1); 1973, c. 90, s. 1; 1974, c. 19, s. 1; 1975, c. 71, s. 1.

#### ADMINISTRATION

**2.—**(1) The Minister of the Environment is responsible for the administration of this Act except sections 45, 46, 47 and 48. Adminis-  
tration

(2) The Minister of Consumer and Commercial Relations is responsible for the administration of sections 45, 46, 47 and 48. 1972, c. 1, s. 70 (12), *part, revised*. Idem

**3.** Every power, right, privilege and discretion with respect to rates under agreements made under subsection 7 (2) and subsection 34 (3) may be exercised by a Director. 1972, c. 1, s. 70 (12), *part*; 1974, c. 19, s. 2 (c). Rates

**4.—**(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. Appointment  
of Directors  
by Minister

(2) The Minister, in an appointment pursuant to subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. 1974, c. 19, s. 5. Limitations

**5.** Where under this Act any power, duty or authority is granted to or vested in the Minister, other than the power to expropriate, he may in writing, subject to the approval of the Lieutenant Governor in Council, delegate that power, Delegation  
of authority

duty or authority to the Deputy Minister or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation. 1972, c. 1, s. 70 (13), *part*.

When  
Environ-  
mental  
Assessment  
Board  
to hold  
hearing

6.—(1) Where a Director is required or permitted to hold a hearing or considers a hearing necessary or advisable under this Act, he may by a notice in writing and on such terms and conditions as he may direct, require the Environmental Assessment Board to hold the hearing. 1972, c. 1, s. 70 (13), *part*; 1974, c. 19, s. 2 (d); 1975, c. 71, s. 2.

When  
Environ-  
mental  
Assessment  
Board  
to hold  
public  
hearing

(2) Upon receipt of notice from a Director referred to in subsection (1), the Environmental Assessment Board shall hold a public hearing with respect to the subject-matter of the notice and shall report thereon to the Director. 1974, c. 19, s. 6; 1975, c. 71, s. 2.

Procedure

R.S.O. 1980,  
c. 140

(3) Except where otherwise provided in this Act and notwithstanding the requirement that a hearing be a public hearing, the provisions of Part III of the *Environmental Assessment Act* apply where a hearing is required to be held under this Act by the Environmental Assessment Board. 1975, c. 71, s. 3 (2).

Application  
of  
R.S.O. 1980,  
c. 140

(4) Subsections 18 (12) and (14) to (20) and sections 20 and 23 of the *Environmental Assessment Act* do not apply where a hearing is required to be held under this Act by the Environmental Assessment Board.

Hearings

(5) Where a hearing is required to be held under this Act by the Environmental Assessment Board,

(a) the Board shall determine its own practice and procedure in relation to hearings and may, subject to the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable;

(b) the member or members conducting a hearing shall prepare and submit to the Board a draft report of the Board referred to in clause (e) and, after notice of the purpose of the meeting has been given to all members of the Board, the Board shall consider the draft report at a meeting of the Board called for the purpose of preparing the report and the Board in preparing the report may,

(i) adopt the draft report,



- (ii) adopt the draft report with such changes as the Board considers advisable, or
- (iii) reject the draft report and take such other action for the purpose of preparing the report, including the holding of additional hearings, as the Board considers advisable;
- (c) a hearing by the Board is for the purpose of making a report containing information and advice and the report is not in any way legally binding in any decision or determination that may be made;
- (d) for the purposes of the exercise of any power or authority or the discharge of any duty by the Board or any member or members thereof conducting a hearing, the Board, or such member or members, has or have the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the exercise of such power or authority and the discharge of such duty as if it were an inquiry under that Act; and
- (e) the report of the Board shall contain a summary of the information presented and the views expressed at the hearing and its recommendations in respect of the subject-matter of the hearing, together with its reasons therefor. 1975, c. 71, s. 3 (3).

R.S.O. 1980,  
c. 411

**7.**—(1) Notwithstanding any other Act, it is the function of the Minister and he has power, Function

- (a) to construct, acquire, provide, operate and maintain water works and to develop and make available supplies of water to municipalities and persons;
- (b) to construct, acquire, provide, operate and maintain sewage works and to receive, treat and dispose of sewage delivered by municipalities and persons;
- (c) to conduct research programs and to prepare statistics for his purpose;
- (d) to disseminate information and advice with respect to the collection, production, transmission, treatment, storage, supply and distribution of water or sewage; and
- (e) to perform such functions or discharge such duties as may be assigned to him from time to time by

the Lieutenant Governor in Council. R.S.O. 1970, c. 332, s. 17 (1); 1972, c. 1, s. 70 (2, 15); 1974, c. 19, s. 8.

Idem

(2) Notwithstanding any other Act, the Crown, represented by the Minister, may make agreements with any one or more municipalities or persons with respect to a supply of water or the reception, treatment and disposal of sewage. 1972, c. 1, s. 70 (16), *part*.

Power of Director

(3) Notwithstanding any other Act, it is the function of a Director and he has power to control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes and to make orders with respect thereto. 1972, c. 1, s. 70 (16), *part*; 1974, c. 19, s. 2 (a).

Offence

(4) Every person who contravenes any order made under subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$100 for every day or part thereof during which such contravention continues. R.S.O. 1970, c. 332, s. 17 (2); 1972, c. 1, s. 70 (17).

Agreements under s. 7

8. Any municipality may enter into agreements with the Crown under subsection 7 (2), and subsections 34 (4) to (8), section 36 and subsection 38 (5) apply with necessary modifications to such agreements. R.S.O. 1970, c. 332, s. 18; 1972, c. 1, s. 70 (3, 18).

Municipal powers

9. The Minister may for his purposes exercise any or all of the powers that are conferred by any general Act upon a municipality respecting the establishment, construction, maintenance or operation of water works or sewage works. R.S.O. 1970, c. 332, s. 19; 1972, c. 1, s. 70 (2).

Inspection of premises, etc.

10.—(1) The Minister and his employees and agents may at any time for his purposes, without consent and without compensation, enter into the lands or buildings of the Province or of any municipality or of any person, or into any highway or road under the jurisdiction and control of any public authority, or into any boat or ship to which the regulations under clause 44 (1) (k) apply, and may make such surveys, examinations, investigations, inspections or other arrangements as he considers necessary. R.S.O. 1970, c. 332, s. 20 (1); 1972, c. 1, s. 70 (2); 1974, c. 19, s. 9.

Right to lay and maintain pipes under roads

(2) The Minister and his employees and agents may for his purposes, without consent and without compensation, lay, maintain, repair, alter or replace such pipes and

appurtenances thereto as he considers necessary in, upon, through, over and under any highway or road under the jurisdiction and control of any public authority. R.S.O. 1970, c. 332, s. 20 (2); 1972, c. 1, s. 70 (2).

(3) Lands, buildings, highways or roads disturbed by the exercise of any of the powers mentioned in subsection (1) or (2) shall be restored to their original condition without unnecessary delay. R.S.O. 1970, c. 332, s. 20 (3).

(4) Every person who hinders or obstructs any employee or agent of the Minister in the exercise of his powers or the performance of his duties under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200 for every day upon which the offence is committed or continues. R.S.O. 1970, c. 332, s. 20 (4); 1972, c. 1, s. 70 (2).

**11.** The Minister, for and on behalf of the Crown, may for the purposes of this Act acquire by purchase, lease or otherwise or, without the consent of the owner, enter upon, take possession of, expropriate and use land and may use the waters of any lake, river, pond, spring or stream as may be considered necessary for his purposes, and, upon such terms as he considers proper, may sell, lease or dispose of any land that in his opinion is not necessary for his purposes. R.S.O. 1970, c. 332, s. 21 (1); 1972, c. 1, s. 70 (2, 19).

**12.** The *Ministry of Government Services Act* does not apply to real or personal property of the Crown acquired for the purpose of a project or for the provision of water or sewage service by the Minister as defined in section 43. R.S.O. 1970, c. 332, s. 22; 1972, c. 1, ss. 70 (2, 3), 74 (1); 1973, c. 2, s. 2.

**13.**—(1) A right or interest in, over, above, upon, across, along, through, under or affecting any land or any covenant or condition relating thereto, in respect of water or sewage works, in favour of the Crown or any municipality having a contract with the Crown in respect of water or sewage works is valid and enforceable in accordance with the terms of the instrument granting, creating or containing them, notwithstanding that the right or interest or the benefit of the covenant or condition is not appurtenant or annexed to or for the benefit of any land of the Crown or the municipality. R.S.O. 1970, c. 332, s. 23 (1); 1972, c. 1, s. 70 (3).

(2) On and after the registration of an instrument to which subsection (1) applies in the proper land registry office, all the rights, interests, covenants and conditions granted or created

by or contained in the instrument are binding upon and enure to the benefit of the heirs, successors, personal representatives and assigns of the parties to the instrument.

Liability  
of grantor  
for breach  
of covenant  
limited

(3) A party to an instrument to which subsection (1) applies or a person to whom subsection (2) applies is not liable for breach of a covenant or condition contained in the instrument committed after he ceased to be the owner of the land therein mentioned, or after he ceased to hold the interest in the land by virtue of which he or his predecessor in title executed the instrument.

Land  
to remain  
subject to  
instrument  
when sold  
for taxes

(4) Where the land mentioned in an instrument to which subsection (1) applies is sold for taxes, the land shall be deemed to have been sold subject to any right or interest granted or created by and any condition or covenant contained in the instrument.

Application

(5) This section applies to rights, interests, covenants and conditions granted or created by or contained in any instrument of the type mentioned in subsection (1), executed after the 28th day of March, 1956. R.S.O. 1970, c. 332, s. 23 (2-5).

#### WATER

Where  
quality of  
water  
deemed to  
be impaired

**14.** Under sections 15, 16, 18 and 19, the quality of water shall be deemed to be impaired if, notwithstanding that the quality of the water is not or may not become impaired, the material deposited or discharged or caused or permitted to be deposited or discharged or any derivative of such material causes or may cause injury to any person, animal, bird or other living thing as a result of the use or consumption of any plant, fish or other living matter or thing in the water or in the soil in contact with the water. R.S.O. 1970, c. 332, s. 30.

Supervision  
of waters

**15.**—(1) For the purposes of this Act, the Minister has the supervision of all surface waters and ground waters in Ontario. R.S.O. 1970, c. 332, s. 31 (1); 1972, c. 1, s. 70 (2).

Examination  
for pollution

(2) The Minister may examine any surface waters or ground waters in Ontario from time to time to determine what, if any, pollution exists and the causes thereof. R.S.O. 1970, c. 332, s. 31 (2); 1972, c. 1, s. 70 (2).

Injunction  
to prevent  
pollution  
of water

(3) Where any person is discharging or depositing or causing or permitting the discharge or deposit of any material of any kind into or in or near any well, lake,



river, pond, spring, stream, reservoir or other body of water or watercourse that, in the opinion of the Minister, may impair the quality of the water in such well, lake, river, pond, spring, stream, reservoir or other body of water or watercourse, the Minister may apply *ex parte* to a judge of the Supreme Court or of the county or district court of the county or district in which the material is being discharged or deposited for an order prohibiting such discharge or deposit for such period not exceeding twenty-one days and on such terms and conditions as the judge considers proper, and such order may, on application to a judge of the Supreme Court or of the county or district court of the county or district in which the material is being discharged or deposited, be continued for such period and on such terms and conditions as the judge considers proper. R.S.O. 1970, c. 332, s. 31 (3); 1972, c. 1, s. 70 (2).

**16.—**(1) Every municipality or person that discharges or deposits or causes or permits the discharge or deposit of any material of any kind into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse or on any shore or bank thereof or into or in any place that may impair the quality of the water of any well, lake, river, pond, spring, stream, reservoir or other water or watercourse is guilty of an offence and on conviction is liable on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

Discharge  
of polluting  
material  
prohibited

(2) Each day that a municipality or person contravenes subsection (1) constitutes a separate offence. R.S.O. 1970, c. 332, s. 32 (1, 2).

Separate  
offences

(3) Every municipality or person that discharges or deposits or causes or permits the discharge or deposit of any material of any kind, and such discharge or deposit is not in the normal course of events, or from whose control material of any kind escapes into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse or on any shore or bank thereof or into or in any place that may impair the quality of the water of any well, lake, river, pond, spring, stream, reservoir or other water or watercourse, shall forthwith notify the Minister of the discharge, deposit or escape, as the case may be. R.S.O. 1970, c. 332, s. 32 (3); 1972, c. 1, s. 70 (2).

Minister  
to be  
notified  
when  
polluting  
material is  
discharged,  
deposited or  
escapes

(4) Every municipality or person that fails to notify the Minister as provided in subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1970, c. 332, s. 32 (4); 1972, c. 1, s. 70 (2).

Offence

Where  
subs. (1)  
does not  
apply

(5) The discharge into any lake, river, stream or other water or watercourse of sewage from sewage works that have been constructed and are operated in accordance with the approval of the former Department of Health, the Commission or the Executive Director, Water Supply and Pollution Control, of the Ministry or a Director or in conformity with any order of the Board is not a contravention of subsection (1). R.S.O. 1970, c. 332, s. 32 (5); 1972, c. 1, s. 70 (22); 1974, c. 19, s. 13.

Repeal

(6) Subsections (3) and (4) are repealed on a day to be named by proclamation of the Lieutenant Governor. 1979, c. 91, ss. 5, 6.

Prohibiting  
or  
regulating  
discharge of  
sewage

**17.**—(1) A director may by order prohibit or regulate the discharge or deposit by any municipality or person of any sewage into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse, and any such order may be amended, varied or revoked by the Director as he considers desirable. R.S.O. 1970, c. 332, s. 33 (1); 1972, c. 1, s. 70 (23); 1974, c. 19, s. 2 (a).

Offence

(2) Every municipality or person that contravenes an order made under subsection (1) is guilty of an offence and on conviction is liable on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000.

Separate  
offences

(3) Each day that a municipality or person contravenes an order made under subsection (1) constitutes a separate offence. R.S.O. 1970, c. 332, s. 33 (2, 3).

Equipment,  
etc., to  
alleviate  
effects of  
impairment  
of quality  
of water

**18.**—(1) Where, in the opinion of a Director it is in the public interest to do so, the Director may by order require any municipality or industrial or commercial enterprise to have on hand and available at all times such equipment, chemicals and other materials as the order specifies to alleviate the effects of any impairment of the quality of water that may be caused by the municipality or industrial or commercial enterprise. R.S.O. 1970, c. 332, s. 34 (1); 1974, c. 19, s. 2 (a).

Offence

(2) Every municipality or industrial or commercial enterprise that contravenes an order of a Director made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$500 for every day the contravention continues. R.S.O. 1970, c. 332, s. 34 (2); 1974, c. 19, s. 2 (a).

Area defined  
for protection  
of public  
water supply

**19.**—(1) An area may be defined by a Director that includes a source of public water supply,

- (a) wherein no person shall swim or bathe; or
- (b) wherein no material of any kind that may impair the quality of water therein shall be placed, deposited, discharged or allowed to remain; or
- (c) wherein no act shall be done and no water shall be taken that may unduly diminish the amount of water available in such area as a public water supply,

and thereupon the municipality or person who has a right to use the water from such source for the purpose of a public water supply shall give notice of the area so defined by publication, posting or otherwise as the Director considers necessary for the protection of the source of public water supply. 1974, c. 19, s. 14.

(2) Every person,

Offences

- (a) who swims or bathes within an area defined under clause (1) (a); or
- (b) who places, deposits, discharges or allows to remain within an area defined under clause (1) (b) any material of any kind that may impair the quality of the water therein; or
- (c) who does any act or takes water within an area defined under clause (1) (c) so that the amount of water available within the area as a public water supply may be unduly diminished,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

(3) Subsection (2) does not apply where the act or taking of water that may unduly diminish the amount of water available as a public water supply within an area defined under subsection (1) was commenced before the notice of the area is given as required under subsection (1). R.S.O. 1970, c. 332, s. 36 (2, 3).

Application

**20.**—(1) In this section, reference to the taking of water for use for domestic or farm purposes means the taking of water by any person other than a municipality or a company public utility for ordinary household purposes or for the watering of livestock, poultry, home gardens or lawns, but does not include the watering or irrigation of crops grown for sale.

Interpretation



Idem

(2) In subsection (4), the reference to the taking of water for the watering of livestock or poultry does not include the taking of surface water into storage for the watering of livestock or poultry. R.S.O. 1970, c. 332, s. 37 (1, 2).

Taking  
of water  
regulated

(3) Notwithstanding any general or special Act or any regulation or order made thereunder and subject to subsection (5), no person shall take more than a total of 50,000 litres of water in a day,

- (a) by means of a well or wells that are constructed or deepened after the 29th day of March, 1961; or
- (b) by means of an inlet or inlets from a surface source of supply, where the inlet or inlets is or are installed in the source of supply or is or are enlarged after the 29th day of March, 1961; or
- (c) by means of a structure or works constructed after the 29th day of March, 1961 for the diversion or storage of water; or
- (d) by any combination of the means referred to in clauses (a), (b) and (c),

without a permit issued by a Director. R.S.O. 1970, c. 332, s. 37 (3); 1974, c. 19, s. 2 (b); 1978, c. 87, s. 18 (1).

Where  
taking of  
water  
interferes  
with other  
person's  
interest  
in water

(4) Notwithstanding any general or special Act or any regulation or order made thereunder, where the taking of water for any purpose, other than the taking of water by any person except a municipality or company public utility for use for ordinary household purposes or for the watering of livestock or poultry and other than the taking of water by any person for fire fighting, interferes, in the opinion of a Director, with any public or private interest in any water, the Director may, by notice served on or sent by registered mail to the person who is taking or is responsible for the taking of water that so interferes, prohibit the person from so taking water without a permit issued by the Director. R.S.O. 1970, c. 332, s. 37 (4); 1974, c. 19, s. 2 (b).

Application  
to domestic  
and farm  
use

(5) Subsection (3) does not apply to the taking of water by any person for use for domestic or farm purposes or for fire fighting. R.S.O. 1970, c. 332, s. 37 (5).

Permit

(6) A Director may in his discretion issue, refuse to issue or cancel a permit, may impose such terms and conditions in issuing a permit as he considers proper and may alter the terms and conditions of a permit after it is issued. R.S.O. 1970, c. 332, s. 37 (6); 1974, c. 19, s. 2 (b).



(7) Where the flowing or leaking of water from a well, or the diversion, flowing or release of water from or by means of a hole or excavation made in the ground for any purpose other than the taking of water, interferes, in the opinion of a Director, with any public or private interest in any water, the Director may, by notice served on or sent to the person who constructed or made such well, hole or excavation or to the registered owner of the land in which such well, hole or excavation is located, require the person or owner to stop or regulate such flowing, leaking, diversion or release of water in such manner and within such time as the Director may direct, or require such person or owner to take such measures in relation to such flowing, leaking, diversion or release of water as the notice may require. R.S.O. 1970, c. 332, s. 37 (7); 1974, c. 19, s. 2 (b).

Flowing or  
leaking of  
water from  
well, etc.,  
regulated

(8) Every person who contravenes,

Offences

(a) subsection (3) or (4); or

(b) a notice served on him or received by him or on his behalf under subsection (4) or (7); or

(c) any of the terms and conditions of a permit issued by a Director,

is guilty of an offence and on conviction is liable to a fine of not more than \$200 for every day the contravention continues. R.S.O. 1970, c. 332, s. 37 (8); 1974, c. 19, s. 2 (b); 1974, c. 19, s. 15.

**21.**—(1) No person shall make a well or hole in the ground for the purpose of obtaining water, except by digging, in any area designated by the regulations made under this Act, without a permit issued by a Director. R.S.O. 1970, c. 332, s. 39 (1); 1974, c. 19, s. 2 (b).

Drilling and  
boring of  
wells, etc.,  
prohibited  
in certain  
areas

(2) A Director may in his discretion issue, refuse to issue, or cancel a permit, may impose such terms and conditions in issuing a permit as he considers proper and may alter the terms and conditions of a permit after it is issued. R.S.O. 1970, c. 332, s. 39 (2); 1974, c. 19, s. 2 (b).

Permit

(3) Every person who contravenes subsection (1) or any of the terms and conditions of a permit issued by a Director is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 332, s. 39 (3); 1974, c. 19, s. 2 (b).

Offence

#### WATER WELL DRILLERS

**22.**—(1) No person shall carry on the business of boring or drilling wells for water unless he is the holder of a

Licences

licence therefor from a Director. R.S.O. 1970, c. 332, s. 40 (1); 1974, c. 19, s. 2 (b).

Issue and  
renewal of  
licences

(2) Upon application therefor in the prescribed form and upon payment of the prescribed fee, a Director may issue or renew, as the case may be, a licence to any person to carry on the business of boring or drilling wells for water. R.S.O. 1970, c. 332, s. 40 (2); 1974, c. 19, s. 2 (b).

Expiry

(3) Every such licence and renewal thereof expires on the 31st day of December following the date of issue or renewal. R.S.O. 1970, c. 332, s. 40 (3).

Suspension  
and  
cancellation

(4) A Director may suspend or cancel a licence at any time. R.S.O. 1970, c. 332, s. 40 (4); 1974, c. 19, s. 2 (b).

Returns

(5) Every licensee shall, within one month after the completion of the boring or drilling of a well for water, make a return to a Director in the prescribed form. R.S.O. 1970, c. 332, s. 40 (5); 1974, c. 19, s. 2 (b).

Offence

(6) Every person who contravenes a provision of this section is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1970, c. 332, s. 40 (6).

#### WATER WORKS

Plans for  
water works  
to be sub-  
mitted to  
Director

**23.**—(1) When any municipality or any person contemplates the establishment of any water works, or the extension of or any change in any existing water works, the plans, specifications and an engineer's report of the water supply and the works to be undertaken, together with such other information as a Director may require, shall be submitted to the Director, and no such works shall be undertaken or proceeded with and no by-law for raising money to finance such works shall be passed until the source of water supply and the proposed works have been approved by the Director. R.S.O. 1970, c. 332, s. 41 (1); 1974, c. 19, s. 2 (a).

Offence

(2) Every municipality that or person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1970, c. 332, s. 41 (2).

Powers of  
Director,  
where water  
works under-  
taken  
without  
approval

(3) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of a Director, a Director may

order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the source of water supply and may direct such changes to be made in the source of water supply and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense. 1974, c. 19, s. 16.

(4) Where in the opinion of a Director it is in the public interest to do so, the Director may refuse to grant his approval or grant his approval on such terms and conditions as he considers necessary. R.S.O. 1970, c. 332, s. 41 (4); 1974, c. 19, s. 2 (a). Director may refuse or qualify approval

(5) Every person, except a municipality, who, Offence

(a) fails to comply with any direction or order given or made by a Director under subsection (3); or

(b) contravenes any of the terms and conditions of the approval granted by a Director under subsection (4),

is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such default or contravention continues. R.S.O. 1970, c. 332, s. 41 (5); 1974, c. 19, s. 2 (a).

(6) The owner of water works shall whenever required by a Director make returns to the Director, of such matters as may be required by the Director, and any such owner who, for the space of thirty days after being so required, fails or neglects to make the returns required is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 332, s. 41 (6); 1974, c. 19, s. 2 (a). Returns from water works

(7) Water works shall at all times be maintained, kept in repair and operated in such manner and with such facilities as may be directed from time to time by a Director. R.S.O. 1970, c. 332, s. 41 (7); 1974, c. 19, s. 2 (a). Water works to be kept in repair

(8) Every person, except a municipality, who fails to comply with any direction given by a Director under subsection (7) is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such default continues. R.S.O. 1970, c. 332, s. 41 (8); 1974, c. 19, s. 2 (a). Offence

(9) Subsections (1) and (3) do not apply, Application

- (a) to a water works to be used only for supplying water, for agricultural, commercial or industrial purposes, that is not required under any Act or regulation to be fit for human consumption;
- (b) to a water works not capable of supplying water at a rate greater than 50,000 litres per day;
- (c) to a privately-owned water works to be used to supply water only for five or fewer private residences; and
- (d) to such water works as may be exempted therefrom by regulations made under this Act. R.S.O. 1970, c. 332, s. 41 (9); 1978, c. 87, s. 18 (2).

#### SEWAGE WORKS

Plans for  
sewage  
works to be  
submitted to  
Director

**24.—**(1) When any municipality or any person contemplates the establishment of any sewage works, or the extension of or any change in any existing sewage works, the plans, specifications and an engineer's report of the works to be undertaken, and the location of the discharge of effluent, together with such information as a Director may require, shall be submitted to the Director, and no such works shall be undertaken or proceeded with and no by-law for raising money to finance such works shall be passed until the proposed works have been approved by the Director. R.S.O. 1970, c. 332, s. 42 (1); 1974, c. 19, s. 2 (a).

Offence

(2) Every municipality that or person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1970, c. 332, s. 42 (2).

Powers of  
Director,  
where sewage  
works  
undertaken  
without  
approval

(3) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense. 1974, c. 19, s. 17.



(4) Where in the opinion of a Director it is in the public interest to do so, the Director may refuse to grant his approval or grant his approval on such terms and conditions as he considers necessary. R.S.O. 1970, c. 332, s. 42 (4); 1974, c. 19, s. 2 (a). Director may refuse or qualify approval

(5) Every person, except a municipality, who,

Offence

(a) fails to comply with any direction or order given or made by a Director under subsection (3); or

(b) contravenes any of the terms and conditions of the approval granted by a Director under subsection (4),

is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such default or contravention continues. R.S.O. 1970, c. 332, s. 42 (5); 1974, c. 19, s. 2 (a).

(6) This section does not apply,

Application

(a) to a sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water or watercourse;

(b) to a privately-owned sewage works designed for the partial treatment of sewage that is to drain or be discharged into a sanitary sewer;

(c) to a privately-owned sewage works serving only five or fewer private residences;

(d) to a sewage works the main purpose of which is to drain agricultural lands;

(e) to a drainage works under the *Drainage Act*; the *Cemeteries Act*, the *Public Transportation and Highway Improvement Act* or *The Railways Act*; R.S.O. 1980, cc. 59, 126, 421  
R.S.O. 1950, c. 131

(f) to such sewage works as may be exempted therefrom by regulations made under this Act,

but this section does apply to a sewage works for the distribution of sewage on the surface of the ground for the purpose of disposing of the sewage. R.S.O. 1970, c. 332, s. 42 (6); 1971, c. 61, s. 1.

Establish-  
ment or  
extension of  
sewage  
works in  
or into  
another  
municipi-  
pality, etc.

**25.**—(1) Where any municipality contemplates establishing or extending its sewage works in or into another municipality or territory without municipal organization, a Director shall, before giving his approval under section 24, hold a public hearing and give at least ten days notice of the hearing to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Director may direct. R.S.O. 1970, c. 332, s. 43 (1); 1974, c. 19, s. 2 (a).

Powers of  
municipi-  
pality after  
approval

(2) Where a Director has given his approval under section 24 to an establishment or extension under subsection (1), the municipality undertaking the establishment or extension may enter upon, take and use such lands in such other municipality or municipalities or territory without municipal organization as may be necessary, and for that purpose has the same powers within such municipality or municipalities or territory as it has within its own municipality, and paragraph 93 of section 210 of the *Municipal Act* does not apply. R.S.O. 1970, c. 332, s. 43 (3); 1974, c. 19, s. 2 (a).

R.S.O. 1980,  
c. 302

Director  
may vary  
approval

(3) A Director may amend or vary any approval given under section 24 to an establishment or extension under subsection (1), but before so acting the Director shall comply with the requirements of subsection (1) with respect to the holding of a public hearing and the giving of notice thereof. R.S.O. 1970, c. 332, s. 43 (4); 1974, c. 19, s. 2 (a).

Application  
to Board

(4) Where a Director has given his approval under section 24 to an establishment or extension under subsection (1), the municipality undertaking the establishment or extension, before proceeding therewith, may apply to the Board for an order,

(a) stopping up and closing any highway, road or road allowance, temporarily or permanently, for the purpose of allowing the establishment or extension to be carried on and vesting it in the municipality undertaking the establishment or extension, and providing for the opening of another highway, road or road allowance in lieu of the highway, road or road allowance so stopped up and closed, and subsection 82 (2) of the *Registry Act* does not apply;

R.S.O. 1980,  
c. 445

(b) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person in any

lands upon or through which it is proposed that the establishment or extension may be constructed shall be terminated and shall be no longer operative or binding upon or against any person, and directing that any such order be registered under the *Registry Act*; and

R.S.O. 1980,  
c. 445

- (c) fixing the compensation for lands taken or injuriously affected in the construction, maintenance or operation of the establishment or extension,

and notice of the application shall be given to the clerk of the municipality in or into which the sewage works are being established or extended and to the clerks of such other municipalities and to such other persons and in such manner as the Board may direct. R.S.O. 1970, c. 332, s. 43 (5); 1974, c. 19, s. 2 (a).

- (5) The registration of an order under clause (4) (b) is a bar to any action or proceeding taken by any person claiming any right or benefit under or by reason of any such restrictions, covenants, interests, estate or title in the lands described in the order.

Registration  
of order

- (6) Where sewage works of a municipality are established or extended in or into another municipality, the municipality in or into which the sewage works are established or extended may make an agreement with the owner of the sewage works for the connecting with and the use of the sewage works.

Agreements  
as to use

- (7) Where a municipality in or into which sewage works are established or extended is unable to make an agreement under subsection (6), the Board, upon an application authorized by by-law of its council, may confer the right to make use of the sewage works upon the applicant municipality and the inhabitants thereof whose properties may be conveniently served by the sewage works, and prescribe the terms and conditions of such use.

Application  
by municipality

- (8) Where an agreement is made under subsection (6) or an order is made under subsection (7), the municipality in or into which the sewage works are established or extended may assess, levy and collect as taxes the amounts to be paid under the agreement or order in the same manner and to the same extent as if the municipality itself were proposing to construct, were constructing or had constructed the works or were operating and maintaining the works.

Municipality may  
collect as taxes  
amounts  
agreed or  
ordered to  
be paid

Application of  
subss. (1, 3)  
to person

(9) Subsections (1) and (3) apply with necessary modifications to a person who contemplates extending his sewage works from one municipality into another municipality or into territory without municipal organization. R.S.O. 1970, c. 332, s. 43 (6-10).

Application  
to Board

R.S.O. 1980,  
cc. 302, 379

(10) Where a Director has given his approval under section 24 to an extension by a person of his sewage works from one municipality into another municipality or into territory without municipal organization the Board may, on application made by the person undertaking the extension, order the amendment of any by-law passed under paragraph 129 of section 210 of the *Municipal Act* or any by-law passed under section 39 of the *Planning Act* or any official plan to permit the use of the land for extension. R.S.O. 1970, c. 332, s. 43 (11); 1974, c. 19, s. 2 (a).

Powers of  
Board

(11) The Board, as a condition of making an order under subsection (10), may impose such restrictions, limitations and conditions respecting the use of land for the extension of the sewage works, not inconsistent with the terms and conditions of the approval of a Director given under section 24, as to the Board may appear necessary or expedient. R.S.O. 1970, c. 332, s. 43 (12); 1974, c. 19, s. 2 (a).

Establish-  
ment or  
extension  
within a  
municipality  
of sewage  
treatment  
works

**26.**—(1) Where, in any municipality, the municipality or a person contemplates establishing or extending a sewage treatment works within the municipality, a Director may, before giving his approval under section 24, hold a public hearing, in which case the Director shall give at least ten days notice of the hearing to the clerk of the municipality and to such other persons and in such manner as the Director may direct. R.S.O. 1970, c. 332, s. 44 (1); 1974, c. 19, s. 2 (a).

Director  
may vary  
approval

(2) A Director may amend or vary any approval given under section 24 to an establishment or extension under subsection (1) and, before so acting, the Director may hold a public hearing, in which case he shall give notice thereof in accordance with subsection (1). R.S.O. 1970, c. 332, s. 44 (3); 1974, c. 19, s. 2 (a).

Application  
to Board

(3) Where a Director has given his approval under section 24 to an establishment or extension by a person of sewage treatment works within a municipality the Board may, on application by the person undertaking the establishment or extension, order the amendment of any by-law pas-



sed under paragraph 129 of section 210 of the *Municipal Act* or any by-law passed under section 39 of the *Planning Act* or any official plan to permit the use of land for the establishment or extension. R.S.O. 1970, c. 332, s. 44 (4); 1974, c. 19, s. 2 (a). R.S.O. 1980,  
cc. 302, 379

(4) The Board, as a condition of making an order under subsection (3), may impose such restrictions, limitations and conditions respecting the use of land for the establishment or extension of the sewage treatment works not inconsistent with the terms and conditions of the approval of a Director given under section 24, as to the Board may appear necessary or expedient. R.S.O. 1970, c. 332, s. 44 (5); 1974, c. 19, s. 2 (a). Powers of  
Board

**27.** Subsections 25 (10) and (11) and subsections 26 (3) and (4) apply with necessary modifications to a municipality that has obtained the approval of a Director to the establishment or extension of its sewage works or to the establishment or extension of sewage treatment works. R.S.O. 1970, c. 332, s. 45; 1974, c. 19, s. 2 (a). Application of  
subss. 25 (10)  
and (11),  
and subss.  
26 (3) and (4)  
to municipality

**28.** The Board may inquire into, hear and determine any application by or on behalf of any municipality or person complaining that any municipality constructing, maintaining or operating sewage works or having the control thereof, Powers of  
Board

(a) has failed to do any act, matter or thing required to be done by an Act or regulation, order or direction, or by any agreement entered into with the municipality; or

(b) has done or is doing any such act, matter or thing improperly,

and that the same is causing deterioration, loss, injury or damage to property, and the Board may make any order, award or finding in respect of any such complaint as it considers just. R.S.O. 1970, c. 332, s. 46.

**29.** Where land is expropriated by a municipality for sewage works or is injuriously affected by the construction, maintenance or operation of sewage works by a municipality, the *Expropriations Act* applies. R.S.O. 1970, c. 332, s. 47. Right to  
compensa-  
tion  
  
R.S.O. 1980,  
c. 148

Construction  
or operation  
of approved  
sewage works  
by statutory  
authority

**30.** Sewage works that are being or have been constructed, maintained or operated with the approval of the former Department of Health, the Commission, the Executive Director, Water Supply and Pollution Control of the Ministry or of a Director and in accordance with the terms and conditions imposed in any order, direction, report or regulation of the former Department of Health, the Commission, the Minister of Health, the Executive Director, Water Supply and Pollution Control of the Ministry, a Director or the Board under the authority of this Act or any predecessor of any provision of this Act, so long as the sewage works are being so constructed or are so constructed, maintained or operated, shall be deemed to be under construction, constructed, maintained or operated by statutory authority. 1974, c. 19, s. 18.

Returns by  
owner to  
Director

**31.** The owner of sewage works shall whenever required by a Director make returns to the Director of such matters as may be required by the Director, and any such owner who for the space of thirty days after being so required fails or neglects to make the returns required is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 332, s. 49; 1974, c. 19, s. 2 (a).

Sewage  
works to  
be kept in  
repair

**32.**—(1) Sewage works shall at all times be maintained, kept in repair and operated in such manner and with such facilities as may be directed from time to time by a Director. R.S.O. 1970, c. 332, s. 50 (1); 1974, c. 19, s. 2 (a).

Offence

(2) Every person, except a municipality, who fails to comply with any direction given by a Director under subsection (1) is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such default continues. R.S.O. 1970, c. 332, s. 50 (2); 1974, c. 19, s. 2 (a).

Report by  
Director

**33.**—(1) Where a Director reports in writing to the clerk of a municipality that he is of the opinion that it is necessary in the public interest that water works or sewage works or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose and the municipality shall forthwith do every act and thing in its power to implement the report of the Director. R.S.O. 1970, c. 332, s. 51 (1); 1974, c. 19, s. 2 (a).

Offence

(2) Every municipality that fails to do every act and thing in its power to implement a report made to it under

subsection (1) forthwith after receipt of the report is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such default continues after receipt of the report. R.S.O. 1970, c. 332, s. 51 (2).

(3) Where the municipality fails to do every act and thing in its power to implement a report made to it under subsection (1) forthwith after receipt of the report, and the time for taking an appeal has passed or there has been final disposition of an appeal by which the report is confirmed or altered, the Director, with the approval of the Board, may direct that whatever is necessary to implement the report or the report as confirmed or altered be done at the expense of the municipality, and the Minister may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction, as a debt due to the Crown by such municipality. 1974, c. 19, s. 19.

Power of  
Director to  
implement  
report

#### PROJECTS

**34.**—(1) Any one or more municipalities may apply to the Minister for the provision of and operation by the Minister of water works or sewage works for the municipality or municipalities. R.S.O. 1970, c. 332, s. 52 (1); 1972, c. 1, s. 70 (2).

Application  
for water  
or sewage  
works

(2) The Minister may thereupon furnish to such municipality or municipalities,

Duty of  
Minister

(a) an estimate of the cost of the project and such other information as the Minister considers advisable;

(b) a statement of the terms and conditions including the method of financing as determined by the Minister upon which the Minister will complete and operate the project; and

(c) a form of agreement to be entered into between the municipality or municipalities and the Crown. R.S.O. 1970, c. 332, s. 52 (2); 1972, c. 1, s. 70 (2, 3); 1974, c. 19, s. 20.

(3) The council of any municipality may by by-law authorize the municipality to enter into such an agreement with the Crown and, subject to the approval of the Lieutenant Governor in Council, the Crown may enter into any such agreement with any municipality or municipalities

Power  
to make  
agreement

and, when such an agreement has been entered into, the parties thereto have all such powers as may be necessary to carry out the provisions thereof or of any undertaking given pursuant thereto. R.S.O. 1970, c. 332, s. 52 (3); 1972, c. 1, s. 70 (3).

Assent of  
electors not  
required  
R.S.O. 1980,  
c. 302

(4) Notwithstanding the *Municipal Act* or any other Act, it is not necessary for the council of any municipality to obtain the assent of the electors to the passing of any such by-law or the entering into of any such agreement with the Crown. R.S.O. 1970, c. 332, s. 52 (4); 1972, c. 1, s. 70 (3).

Minister  
to act for  
municipality  
for approval  
of Board

(5) Where a municipality that proposes to enter into an agreement with the Crown is required to obtain the approval of the Board with respect to any aspect of the proposed project, the application for such approval shall be made by the Minister on behalf of the municipality. R.S.O. 1970, c. 332, s. 52 (5); 1972, c. 1, s. 70 (2, 3).

Term of  
agreement

(6) Notwithstanding any other Act, every such agreement remains in force for such period as it may prescribe and in any event until all obligations to the Crown of the municipality or municipalities party or parties to the agreement have been discharged to the satisfaction of the Minister. R.S.O. 1970 c. 332, s. 52 (6); 1972, c. 1, s. 70 (2, 3).

Agreement  
binding on  
local board

(7) Where a municipality has entered into an agreement with the Crown under this section, the agreement is binding on any commission or local board having the control and management of water works or sewage works, as the case may be, in the municipality. R.S.O. 1970, c. 332, s. 52 (7); 1972, c. 1, s. 70 (3).

Form of  
agreement

(8) Any agreement under this section may be evidenced by one or more documents. R.S.O. 1970, c. 332, s. 52 (8).

Payments by  
municipalities to  
Treasurer  
under  
agreement

**35.—**(1) Every municipality that has entered into an agreement with the Crown under section 34 before the 1st day of April, 1974 shall pay to the Treasurer the following sums or, where such agreement is with more than one municipality, or where the project requires more than one agreement at least one of which is with a municipality, its share as adjusted by the Minister, of the following sums:

1. In each calendar year during the currency of such agreement, commencing with the calendar year in which occurs the date of completion of such project,

- (a) the proportion payable by the municipality or municipalities party or parties to the



project, as adjusted by the Minister, of the total amount of interest and expenses of debt service that would be payable by the Commission in each such year if the Commission were not dissolved in respect of all borrowings of the Commission from time to time outstanding and made by the Commission at any time before or after the making of such agreement for the purpose of meeting,

(i) the cost or estimated cost of all projects, except projects under agreements referred to in subsection (2), or

(ii) the cost or estimated cost of all projects referred to in subsection (2),

at any time theretofore or thereafter acquired, provided or constructed or in course of acquisition, provision or construction by the Commission pursuant to any agreement or agreements, or for any other purpose of the Commission respecting such projects, including the refunding or repayment in whole or in part of any such borrowings;

(b) the total cost to the Crown in each such year of the operation, supervision, maintenance, repair, administration and insurance of such project; and

(c) the total amount in each such year placed by the Minister to the credit of the reserve account referred to in subsection 39 (1) in respect of such project or an amount equal to  $1\frac{1}{2}$  per cent of the cost of such project, whichever is less, and such additional amount as may be approved by the municipality or municipalities.

2. In each calendar year for such period of years as may be prescribed by such agreement, commencing not later than the fifth calendar year next following the date of completion of such project, such sum as would be necessary with interest compounded annually thereon at such rate as is prescribed by regulation to form at the

expiry of such period of years a fund equal to the cost of such project. 1972, c. 1, s. 70 (3); 1974, c. 19, s. 21 (1).

Interest and  
expenses of  
debt service

(2) In respect of agreements under section 34 entered into after the 31st day of December, 1965 and before the 1st day of April, 1974, the interest and expenses of debt service that would be payable by the Commission referred to in clause (a) of paragraph 1 of subsection (1) shall, in each year during the currency of the agreement, be the amount calculated by applying the average rate of such interest and expenses as would have been payable to the Treasurer in respect of the project.

Annual  
adjustment of  
payments

(3) The Minister shall annually adjust and apportion among the respective municipalities the sums payable to the Treasurer by such municipalities under subsection (1). 1974, c. 19, s. 21 (2).

Settlement  
of disputes

(4) In the event of any dispute arising as to the adjustment or apportionment of any sums payable to the Treasurer by the respective municipalities under subsection (1), such dispute shall be referred to a sole arbitrator to be appointed by the Lieutenant Governor in Council, and the award of the arbitrator is final and binding on the Crown and the Treasurer and the municipality or municipalities concerned. R.S.O. 1970, c. 332, s. 53 (4); 1972, c. 1, s. 70 (2, 33); 1974, c. 19, s. 2 (e).

Costs

(5) Such arbitrator shall be paid for his services such amount as may be directed by the Lieutenant Governor in Council and the whole costs of such arbitration shall be paid as directed by the arbitrator in his award.

R.S.O. 1980,  
c. 304  
to apply

(6) Except as otherwise provided in this section, the *Municipal Arbitrations Act* applies to any arbitration under subsection (4). R.S.O. 1970, c. 332, s. 53 (5, 6).

Sewer rates  
and water  
works rates

**36.—**(1) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 34 may by by-law, subject to the approval of the Board, provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

- (a) where the agreement is or has been entered into before the 1st day of April, 1974, under clause (a) of paragraph 1 and paragraph 2 of subsection 35 (1); or
- (b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for the cost of the project,

and, with the like approval, such by-law may from time to time be amended or repealed. 1974, c. 19, s. 22, *part*.

(2) Where a by-law under subsection (1) imposes a sewer rate or water works rate upon owners or occupants of land, the council of the municipality may provide for commutation of rates for a payment in cash of the whole or any part of the rate imposed and may prescribe the terms and conditions thereof. R.S.O. 1970, c. 332, s. 54 (2).

(3) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 34 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(a) where the agreement is or has been entered into before the 1st day of April, 1974, under clauses (b) and (c) of paragraph 1 of subsection 35 (1); or

(b) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for,

(i) the total cost to the Crown in each year of the operation, supervision, maintenance, repair, administration and insurance of the project, and

(ii) the total amount in each year placed by the Minister to the credit of any reserve account established under the agreement for the project. 1974, c. 19, s. 22, *part*.

(4) Subject to this section, section 218 of the *Municipal Act* applies with necessary modifications to sewer rates and sewage service rates imposed under this section.

Application of  
R.S.O. 1980,  
c. 302, s. 218

Idem

(5) Every water works rate or water service rate imposed under this section shall, in so far as is practicable and subject to this section, be imposed in the same manner and with and subject to the same provisions as apply to a water works rate or sewage service rate, respectively, under section 218 of the *Municipal Act*, and that section applies with necessary modifications to the imposition of such rates. R.S.O. 1970, c. 332, s. 54 (4, 5).

R.S.O. 1980,  
c. 302

Cost of  
construction  
of service  
drains

**37.** Where an agreement is made with a municipality for the provision of sewers under subsection 7 (2) or under section 34, the municipality may charge the owner of the premises for which a service drain is constructed the cost of construction of the service drain from the sewer to the line of the highway, together with interest thereon at a rate to be determined by the municipality, over such period of years as the municipality determines. R.S.O. 1970, c. 332, s. 55; 1972, c. 1, s. 70 (34).

When  
payments to  
be made

**38.—**(1) As soon as practicable in each calendar year, and in any event not later than the 15th day of February, the Minister shall estimate the respective amounts payable to the Treasurer in such calendar year by each of the municipalities having agreements with the Crown under section 34 entered into before the 1st day of April, 1974 and shall by his precept directed to each municipality require such municipality to pay to the Treasurer on the dates specified in the agreement the sums so payable by each municipality and the municipality shall make payment to the Treasurer accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Minister may be made and the precept of the Minister may be delivered at any time in such year as the Minister may determine and the payment or payments by the municipality shall be made at such time or times as the Minister may require.

Adjustment

(2) At the end of each calendar year, the actual sums payable by each municipality to the Treasurer for such year for the purposes aforesaid shall be ascertained by the Minister and the Minister shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year. 1974, c. 19, s. 23 (1).

Delivery

(3) The mailing by the Minister of the precepts by registered mail in envelopes addressed to the clerks of the respective municipalities constitutes delivery of the precepts to them. R.S.O. 1970, c. 332, s. 56 (3); 1972, c. 1, s. 70 (2).



(4) A municipality may pay and the Treasurer may <sup>Prepayment</sup> accept,

(a) in advance of the time that it would otherwise be payable, any sum in respect of any sum mentioned in section 35; and

(b) any sum to reduce the cost of a project. R.S.O. 1970, c. 332, s. 56 (4); 1974, c. 19, s. 2 (e).

(5) For the purpose of meeting the periodic payments to the Treasurer under an agreement entered into under section 34, a municipality may raise money by any method or methods authorized by law or by any combination thereof as if the municipality itself were proposing to construct, were constructing or had constructed the works or were operating and maintaining the works. R.S.O. 1970, c. 332, s. 56 (5); 1974, c. 19, s. 23 (2). <sup>Municipalities may raise moneys for agreements</sup>

**39.**—(1) The Minister may establish and maintain a reserve <sup>Reserve accounts</sup> account in respect of each project under section 34,

(a) to provide for renewals and replacements in respect of the project;

(b) to provide for contingencies in respect of such project; and

(c) to provide for capital expenditures for the improvement of the project in relation to its operation and appearance,

and for such purposes may place to the credit of or charge to such reserve accounts such amounts as may in the opinion of the Minister be sufficient therefor.

(2) Notwithstanding subsection (1), where a reserve account has been established in respect of a project, the Minister may, in respect of any other project for the same municipality, charge to such reserve account such amounts as in the opinion of the Minister may be sufficient therefor for any of the purposes mentioned in clauses (1) (a), (b) and (c). 1974, c. 19, s. 24 (1). <sup>When moneys may be expended in respect of another project</sup>

**40.**—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all reserve accounts under any agreements under this Act shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called <sup>Ministry of the Environment Reserve Fund</sup>

“Ministry of the Environment Reserve Account” and the interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to each reserve account proportionately having regard to the respective balances from time to time remaining to the credit of the respective reserve accounts.

Idem

(2) The accounts of the Minister with respect to the reserve accounts referred to in subsection (1) shall be kept so as to exhibit at all times the amounts placed to the credit of each reserve account, the interest credited thereon and the payments made in respect thereof. 1974, c. 19, s. 25.

Ministry  
of the  
Environment  
Debt  
Retirement  
Account

41.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all municipalities with respect to all moneys received from the municipalities under paragraph 2 of subsection 35 (1) shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called “Ministry of the Environment Debt Retirement Account” and that part of the amounts so credited as is attributable to each project shall remain as a credit in the Ministry of the Environment Debt Retirement Account until the expiration of the period of years during which payments are required to be made in respect of such project under paragraph 2 of subsection 35 (1).

Idem

(2) The interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to the respective projects proportionately having regard to the respective balances in the consolidated account from time to time attributable to such projects and the accounts of the Minister with respect to such projects shall be kept so as to exhibit at all times the amounts placed to the credit of each project, the interest credited thereon and the payments made in respect thereof.

Discon-  
tinuance of  
further  
payments

(3) If at any time the amount in the consolidated account attributable to any project is, in the opinion of the Minister, sufficient with the further estimated interest thereon to form at the expiration of the period of years referred to in paragraph 2 of subsection 35 (1) an amount equal to the cost of the project, the Minister, subject to subsection (4) of this section and with the consent of the Treasurer, may authorize the municipality or municipalities with whom the Crown has an agreement in respect of such project to discontinue any further payments under paragraph 2 of subsection 35 (1).

(4) If at the expiration of such period of years the amount in the consolidated account attributable to any project, <sup>Excess or deficiency</sup>

- (a) is in excess of the cost of the project, the Treasurer shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or
- (b) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Treasurer the amount of such deficiency.

(5) Notwithstanding any other provision of this Act, the Treasurer may at any time, upon the request of the Minister, pay to the Province out of the Ministry of the Environment Debt Retirement Account any sum attributable to any project in payment or part payment of the amount owing to the Crown for the cost of the project. <sup>Discharge of indebtedness to Province</sup>  
1974, c. 19, s. 26.

**42.** For the purposes of section 26 of the *Assessment Act*, the Crown, with respect to any project in a city, town, village or township, shall be deemed a commission under clause (1) (a) of that section and the project shall be deemed a public utility under clause (1) (b) of that section. <sup>Annual payments to municipalities in lieu of taxes</sup> R.S.O. 1970, c. 332, s. 60; 1972, c. 1, s. 70 (3). <sup>R.S.O. 1980, c. 31</sup>

#### PUBLIC WATER OR SEWAGE SERVICE AREA

**43.—(1)** In this section,

<sup>Interpretation</sup>

- (a) “sewage service” means the acceptance, collection, transmission, storage, treatment and disposal of sewage, or any one or more of them;
- (b) “water service” means the taking, collection, production, treatment, storage, supply, transmission, distribution, sale, purchase and use of water, or any one or more of them. R.S.O. 1970, c. 332, s. 61 (1).

(2) Notwithstanding any general or special Act or any regulation or order made thereunder, where, in the opinion of a Director, it is in the public interest to do so, the Director may make an order defining and designating an area as an area of public water service or an area of public sewage service, and, by order from time to time, for the <sup>Area of public water or sewage service</sup>

purpose of controlling, regulating, prohibiting, requiring or providing water service or sewage service in the area, may,

- (a) impose such terms and conditions in the area as the Director considers necessary;
- (b) require that any contract with respect to water service or sewage service in the area be terminated or amended in accordance with the order; and
- (c) fix and impose rates or charges upon any municipality or person in the area for the provision by the Minister of water service or sewage service to the municipality or person. R.S.O. 1970, c. 332, s. 61 (2); 1972, c. 1, s. 70 (2, 40); 1974, c. 19, s. 2 (c).

Termination  
or amend-  
ment of  
contracts

(3) Where an order is made by a Director requiring that any contract be terminated or amended, such contract shall be deemed to be terminated and no longer operative or binding upon or against any municipality or person or shall be deemed to be amended, as the case may be, in accordance with the order. R.S.O. 1970, c. 332, s. 61 (3); 1974, c. 19, s. 2 (c).

Hearing

(4) A Director shall, before making an order under subsection (2), hold a public hearing and give at least twenty-one days notice of the hearing to the clerk of such municipality or municipalities and to such person or persons and in such manner as the Director may direct. R.S.O. 1970, c. 332, s. 61 (4); 1974, c. 19, s. 2 (c).

Amending  
order

(5) A Director may amend the terms and conditions in any order, and may amend the definition or designation of an area in any order, but, before amending the definition or designation of an area, the Director shall comply with the requirements of subsection (4) with respect to the holding of a hearing and the giving of notice thereof. R.S.O. 1970, c. 332, s. 61 (5); 1972, c. 1, s. 70 (41); 1974, c. 19, s. 2 (c).

Copies of  
order

(6) A copy of an order of a Director made under this section shall be sent by the Director by registered mail to the clerk of every municipality and to every person named in the order, and to such other persons as the Director may direct. R.S.O. 1970, c. 332, s. 61 (7); 1972, c. 1, s. 70 (43); 1974, c. 19, s. 2 (c).

Petition  
re definition  
of area

(7) Upon the petition of,

- (a) any municipality affected by an order under this section;



- (b) any person who is a party to a contract terminated or amended by an order under this section; or
- (c) any owner or occupant of land in an area of public water service or an area of public sewage service who is affected by an order under this section in a different manner and to a different extent than all other owners or occupants of land in the area,

filed with the Clerk of the Executive Council within twenty-eight days after the mailing of copies of the order under subsection (6), the Lieutenant Governor in Council may confirm, vary or rescind the definition or designation of the area in the order, and such confirmation, variation or rescission is binding upon a Director and such municipality, person, owner or occupant. R.S.O. 1970, c. 332, s. 61 (8); 1974, c. 19, s. 2 (c).

(8) Where a contract is terminated or amended by an order under this section, the Crown shall make due compensation to any municipality or person named in the contract as a party thereto for any damage necessarily resulting from the termination or amendment of the contract, as the case may be, beyond any advantage that it or he may derive from water service or sewage service provided under the order. R.S.O. 1970, c. 332, s. 61 (9); 1972, c. 1, s. 70 (3). <sup>Compensation</sup>

(9) Subject to this section, a claim for compensation, if not agreed upon by a Director and the municipality or person making the claim, shall be determined by the Board and not otherwise, and the *Ontario Municipal Board Act*, except section 94, applies as far as is practicable to every such claim. R.S.O. 1970, c. 332, s. 61 (10); 1974, c. 19, s. 2 (c). <sup>Determination of compensation</sup> <sup>R.S.O. 1980, c. 347</sup>

(10) For the purpose of meeting periodic payments to the Treasurer under an order made under this section, a municipality may raise money by any method or methods authorized by law or by any combination thereof as if the municipality itself were proposing to construct, were constructing or had constructed water works or sewage works or were operating and maintaining water works or sewage works. R.S.O. 1970, c. 332, s. 61 (11); 1974, c. 19, s. 2 (e). <sup>Municipality may raise money for payments under order</sup>

(11) For the purpose of meeting periodic payments to the Treasurer under an order made under this section, a municipality may, with the approval of the Board, by by- <sup>Rates in defined area</sup>

law define an area that in the opinion of the council of the municipality will derive a benefit from the water service or sewage service provided under the order and may impose a rate or charge upon the owners or occupants of all land in such defined area. R.S.O. 1970, c. 332, s. 61 (12); 1974, c. 19, s. 2 (e).

Offence

(12) Every municipality or person who contravenes any order made under this section is guilty of an offence and on conviction is liable to a fine of \$500 for every day upon which such contravention continues. R.S.O. 1970, c. 332, s. 61 (13).

Petition  
re rates  
and charges

(13) Upon the petition of any municipality or person required to pay a rate or charge imposed by an order under this section, filed with the Clerk of the Executive Council within twenty-eight days after the mailing of copies of the order under subsection (6), the Lieutenant Governor in Council may confirm, vary or rescind such rate or charge or may refer the petition to the Board or to such person or persons as the Lieutenant Governor in Council may designate, and the Board or such person or persons may confirm, vary or rescind such rate or charge, and any order made by the Lieutenant Governor in Council or the Board or such person or persons with respect thereto is binding upon the Treasurer and a Director and the municipality and person required to pay such rate or charge. R.S.O. 1970, c. 332, s. 61 (14); 1972, c. 1, s. 70 (44); 1974, c. 19, s. 2 (c, e).

REGULATIONS

Regulations

**44.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) regulating and controlling the location, construction, repair, removal or alteration of mains, service pipes, valves, hydrants and all other works in or upon public property that form part of or are connected with water works;
- (b) regulating and controlling the manner in which the service pipes of users of water shall be connected with the mains of the water works supplying the water;
- (c) regulating and controlling the location, construction, repair, removal or alteration of sewers, drain pipes, manholes, gully traps and all other works in or

upon public property that form part of or are connected with sewage works;

- (d) regulating and controlling the manner in which building sewers shall be connected with sewage works;
- (e) prescribing the rate of interest for the purpose of paragraph 2 of subsection 35 (1);
- (f) regulating and controlling the content of sewage entering sewage works;
- (g) classifying persons who operate water works, and sewage works and requiring and providing for the licensing of water work and sewage work operators or any class or classes thereof, and prescribing the qualifications of persons to whom licences may be issued, and prescribing and charging fees for such licences, and providing for the revocation and suspension of licences;
- (h) prescribing standards of quality for potable and other water supplies, sewage and industrial waste effluents, receiving streams and water courses;
- (i) specifying any matter or substance as sewage for the purposes of any section or sections of this Act or of any regulation made thereunder;
- (j) prescribing operating standards for water works or sewage works;
- (k) requiring and regulating the storage, treatment and disposal of sewage in boats and ships or any class or classes thereof and the equipment therefor, and prohibiting the use and installation of equipment for the storage, treatment or disposal of sewage in boats and ships or any class or classes thereof unless the equipment and installation thereof conform to the regulations, and providing for and requiring the approval of a Director for any such equipment, and prohibiting and regulating the discharge of sewage from such boats and ships or any class or classes thereof;
- (l) regulating and controlling, for the purpose of preventing or reducing the pollution of any body of water or watercourse, places or any class or classes thereof located on or adjacent to any body of water or watercourse where moorings are provided for boats or ships or where any services are

provided for boats or ships or the occupants thereof, and regulating and governing persons providing such moorings or services, or any class or classes thereof;

- (m) defining sewage for the purposes of regulations made under clauses (k) and (l);
- (n) designating areas within which wells or holes may not be made for the purpose of obtaining water, except by digging, without a permit issued by a Director;
- (o) regulating and controlling the location, spacing, boring and drilling of water wells, the construction and materials used in the construction, alteration or repair of water wells, the pumps and other equipment used in connection with water wells, the use of water wells, the abandonment of water wells, the cleansing and disinfecting of water wells, prescribing the records and the form of the records with respect to water wells that shall be kept by the owners thereof and defining "owner" for the purpose of this clause;
- (p) requiring and providing for the licensing of persons who operate equipment for the boring or drilling of wells for water and prescribing the qualifications of persons to whom licences may be issued, and prescribing and charging fees for such licences, and providing for the revocation and suspension of licences;
- (q) prescribing the forms required for the purposes of section 22 and the fees for licences authorized thereby and for the renewal of such licences, and prescribing the terms and conditions upon which such licences may be issued;
- (r) regulating and controlling the use of water from any source of supply;
- (s) exempting any sewage works or any class or type thereof from section 24 and any water works or any class or type thereof from subsections 23 (1) and (3);
- (t) providing for a grievance board and prescribing its jurisdiction, powers and duties, including any powers of a commission under Part II of the *Public*



*Inquiries Act* designating the classes of its employees that may grieve, and prescribing the procedures to be followed for hearing and dealing with grievances; R.S.O. 1980, c. 411

- (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 332, s. 62 (1); 1971, c. 49, s. 18; 1972, c. 1, s. 70 (2, 5); 1973, c. 90, s. 4; 1974, c. 19, s. 2 (a, b); 1974, c. 19, s. 28; O. Reg. 54/76.

(2) Subject to the approval of the Lieutenant Governor in Council, the Minister of Consumer and Commercial Relations may make regulations, Idem

- (a) regulating and controlling the location, construction, repair, renewal or alteration of plumbing and the material to be used in the construction thereof, and requiring municipalities to carry out such inspections with respect to plumbing as may be prescribed;
- (b) adopting by reference, in whole or in part, with such changes as the Minister of Consumer and Commercial Relations considers necessary, the standards made or adopted by the Canadian Standards Association respecting pipes, fittings, fixtures and materials used in plumbing, and providing for the testing and marking of such pipes, fittings, fixtures and materials or any class or classes thereof by the Canadian Standards Association and prohibiting the use in plumbing of such pipes, fittings, fixtures and materials that are not marked as approved by the Canadian Standards Association; and
- (c) defining plumbing for the purposes of the regulations.

(3) The application of any regulation made under this section may be general or may be limited territorially or as to time or otherwise. Application of regulations

(4) Every municipality or person who contravenes any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$1,000. R.S.O. 1970, c. 332, s. 62 (2, 3). Offence

**45.**—(1) Where a local municipality undertakes to carry out inspections with respect to plumbing as prescribed by regulations made under section 44, the local municipality and the local board of health of the municipality or, where a local board of a health unit has jurisdiction in the munici- Plumbing inspection, by local municipality or local board of health

pality, the local board of the health unit may enter into agreements providing that the local board shall carry out such inspections upon such terms and conditions as may be agreed upon.

by county  
or health  
unit

(2) Where a county council by a two-thirds vote provides that such inspections shall be carried out by the county, such inspections shall be carried out in the municipalities that form part of the county for municipal purposes only by the county, provided that, where there is a health unit in the county, the county and the local board of the health unit may enter into agreements providing that the board shall carry out such inspections upon such terms and conditions as may be agreed upon.

by county  
and health  
unit

(3) Where a county and a local board of a health unit have entered into an agreement under subsection (2) and the local board does not have jurisdiction in all of the municipalities that form part of the county for municipal purposes, the county shall carry out such inspections in the municipalities that do not form part of the health unit. R.S.O. 1970, c. 332, s. 63; O. Reg. 54/76.

Plumbing  
inspection  
by-laws

**46.**—(1) Where a local municipality, a county or a local board of health or the local board of a health unit undertakes under section 45 or the regulations made under section 44 or under an agreement to inspect plumbing, the municipality or local board, as the case may be, may pass by-laws,

- (a) providing for such inspections and for appointing one or more inspectors for such purpose;
- (b) for charging fees for such inspections and fixing the amounts thereof;
- (c) for requiring the production of plans of plumbing that is to be constructed, repaired, renewed or altered and of the location of drains, pipes, traps and other works or appliances that are or are to be part of or connected with the plumbing, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and requiring that without such permit no such plumbing may be constructed, repaired, renewed or altered;
- (d) for prohibiting the use of such plumbing until it has been inspected and found to conform to the regulations made under clause 44 (2) (a).

(2) Subject to section 54, Part XIX of the *Municipal Act* applies with necessary modifications to by-laws passed under this section. Penalties R.S.O. 1980, c. 302

(3) An inspector may at all reasonable hours enter any premises to inspect plumbing to which the regulations made under section 44 are applicable, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on conviction is liable to a fine of not more than \$25. Inspector may enter premises R.S.O. 1970, c. 332, s. 64; O. Reg. 54/76.

**47.**—(1) In this section, “owner” includes the person for the time being managing or receiving the rent of or paying the municipal taxes on the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let. Interpretation

(2) Where a person has been convicted of constructing, repairing, renewing or altering plumbing in a manner that does not conform to the regulations made under section 44 and the time for appealing such conviction has elapsed and no appeal from such conviction is pending, the municipality or local board responsible for inspecting such plumbing may, by notice sent by registered mail to the owner of the land and premises in which the plumbing is located, require him to make the plumbing conform to such regulations within such period as may be stated in the notice. Owner may be required to make plumbing conform to code

(3) The notice shall specify wherein the plumbing does not conform to the regulations and that, if it is not made to conform within the period stated in the notice, the work may be done by the municipality or local board in accordance with subsection (4). Notice

(4) If the owner of the land and premises does not comply with the notice, the municipality or local board that sent the notice may, at the expense of the owner, make the plumbing conform to the regulations, and for that purpose its servants and agents may from time to time enter upon the land and premises. Work may be done by municipality

(5) The municipality or local board that caused the work to be done to make the plumbing conform has a lien for the amount expended by it or on its behalf together with interest at the rate of 6 per cent per annum upon the land and premises in which the plumbing is located, and the municipality or local board may direct that such Collection of expenses

amount with interest be added to the collector's roll of the local municipality in which the land and premises are situated and collected in like manner as municipal real property taxes and paid over to the municipality or local board, as the case may be. R.S.O. 1970, c. 332, s. 65; O. Reg. 54/76.

Plumbing  
provisions  
in by-laws

**48.** Notwithstanding any general or special Act, no provision of a by-law of a municipality, heretofore or hereafter passed, with respect to any matter that may be dealt with by regulation under subsection 44 (2) has any force or effect. R.S.O. 1970, c. 332, s. 66; O. Reg. 54/76.

#### MISCELLANEOUS

Multiple  
informations

**49.** An information or certificate of offence in respect of any contravention of this Act may be for one or more offences and no information, certificate of offence, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1970, c. 332, s. 67.

Certificate  
of analyst  
as evidence

**50.** In any prosecution under this Act or the regulations or in any proceeding in the Supreme Court under this Act, the production of a certificate or report of an analyst of the Ministry as to the analysis, ingredients or quality of any water or of any material, whether liquid, gaseous or solid or of any combination thereof, is *prima facie* evidence of the facts stated therein and of the authority of the person making the certificate or report without any proof of appointment or signature. R.S.O. 1970, c. 332, s. 68; 1972, c. 1, s. 70 (46).

Sewage  
disposal

**51.—(1)** If an industrial or commercial enterprise makes arrangements for the collection, transmission, treatment or disposal of sewage that are considered unsatisfactory by a Director, the Director may require such industrial or commercial enterprise,

- (a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;
- (b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and
- (c) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director.



(2) If an industrial or commercial enterprise makes <sup>Idem</sup> no arrangements for the collection, transmission, treatment or disposal of sewage, a Director may require such industrial or commercial enterprise,

- (a) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;
- (b) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and
- (c) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director. 1974, c. 19, s. 29.

(3) Every industrial or commercial enterprise that con- <sup>Offence</sup>travenes a direction or requirement of a Director under subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$200 for every day the contravention continues. R.S.O. 1970, c. 332, s. 69 (2); 1974, c. 19, s. 2 (a).

**52.**—(1) Where a discharge or deposit of sewage into <sup>Discharge of sewage into sewage works</sup> a sewage works, in the opinion of a Director, may interfere with the proper operation of a sewage works, the Director may, by notice served on or sent to the municipality that or the person who discharges or deposits or causes or permits the discharge or deposit of sewage, require the municipality or person to stop or regulate such discharge or deposit or to take such measures in relation thereto in such manner and within such time as the notice may require. R.S.O. 1970, c. 332, s. 70 (1); 1974, c. 19, s. 2 (a).

(2) Every municipality that or person who contravenes <sup>Offence</sup> a notice under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200 for every day upon which the contravention continues. R.S.O. 1970, c. 332, s. 70 (2).

**53.**—(1) Except in the case of an application for judicial <sup>Protection from personal liability</sup> review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against any member of the Environmental Appeal Board or the Environmental Assessment Board or against any employee of the Ministry or any Crown employee within the meaning of the *Public Service Act* <sup>R.S.O. 1980, c. 418</sup>

acting under the direction of such member or employee of the Ministry for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. 1974, c. 19, s. 30, *part*; 1975, c. 71, s. 2.

Crown not  
relieved of  
liability  
R.S.O. 1980,  
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1974, c. 19, s. 30, *part*.

Proceedings  
to enforce  
provisions  
of Act and  
regulations

**54.** Proceedings to enforce any provision of this Act or of any regulation made under this Act or of any by-law passed under clause 46 (1) (c) or (d) may be instituted within one year after the time when the subject-matter of the proceedings arose. R.S.O. 1970, c. 332, s. 72.

Enforcing  
performance  
of things  
required to  
be done by  
Minister

**55.** Where the Minister or a Director or an officer to whom power has been delegated by the Minister under section 5 has authority to direct or require that any matter or thing be done, the Minister or such Director or officer may direct that, in default of its being done by the municipality or person directed or required to do it, such matter or thing shall be done at the expense of such municipality or person, and the Minister may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Crown by such municipality or person. R.S.O. 1970, c. 332, s. 73; 1972, c. 1, s. 70 (2, 3).

Power to  
restrain  
by action

**56.** Where any provision of this Act or any regulation made thereunder or any direction, order, approval, notice or permit, made, granted, given, served or issued by a Director under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, such contravention may be restrained by action at the instance of the Minister. R.S.O. 1970, c. 332, s. 74; 1972, c. 1, s. 70 (2); 1974, c. 19, s. 2 (d).

Fees for  
approval

**57.** Upon the issuance or alteration of a permit or the giving of approval under this Act, there shall be paid to the Treasurer such fees as the Minister may determine, in each case having regard amongst other things to the time occupied by the Ministry in respect of such issuance, alteration or approval, and the terms and conditions in respect thereof. 1974, c. 19, s. 31.

Fees for  
copies,  
information  
or advice

**58.** The Minister may charge and collect for payment to the Treasurer such fees as the Minister considers proper,

(a) for copies of documents, maps, plans or drawings;  
or

(b) for information or advice in respect of the collection, production, transmission, treatment, storage, supply or distribution of water or sewage,

supplied by the Ministry. 1974, c. 19, s. 32.

**59.** Every person who knowingly gives false information<sup>False information</sup> in any application, return or statement made to the Minister or an employee of the Ministry in respect of any matter under this Act or the regulations made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500. R.S.O. 1970, c. 332, s. 77; 1972, c. 1, s. 70 (2); 1974, c. 19, s. 33.

**60.** Any amount due and payable by a municipality<sup>Recovery of moneys owing to Treasurer</sup> or a person to the Treasurer in respect of any matter under this Act, together with such interest and expenses of debt service as may be determined by the Treasurer with respect to such amount, may be recovered by the Minister with costs in a court of competent jurisdiction as a debt due to the Crown by the municipality or person. 1974, c. 19, s. 34.

**61.**—(1) Where a Director intends to make, give or issue<sup>Submissions</sup> a direction, order, report or notice, other than an emergency order, he shall serve notice of his intention together with written reasons therefor upon the person or municipality to whom he intends to make, give or issue the direction, order, report or notice and shall not make, give or issue the direction, order, report or notice until fifteen days after the service thereof and such person or municipality may make submissions to him at any time before the making, giving or issuing of the direction, order, report or notice. 1972, c. 1, s. 70 (50), *part*; 1974, c. 19, s. 2 (d).

(2) When a Director,

(a) refuses to issue or renew, or cancels or suspends a licence or permit or refuses to grant an approval;

(b) imposes terms and conditions in issuing a licence or permit or in granting an approval;

(c) alters the terms and conditions of a permit after it is issued; or

(d) gives or makes any notice, direction, report or order, except an order under section 43,

When approval, etc., refused

he shall serve written notice of the refusal, cancellation or suspension referred to in clause (a), the terms and conditions imposed or altered as referred to in clause (b) or (c), or a written copy of the notice, direction, report or order referred to in clause (d), together with written reasons therefor, in each case upon the applicant or the person or municipality to whom the licence, permit, approval, direction, order, report or notice is issued, as the case may be, and the applicant, person or municipality may, by written notice served upon the Director and the Environmental Appeal Board within fifteen days after the service of the notice, terms and conditions or written copy together with written reasons therefor in each case require a hearing by the Environmental Appeal Board. 1974, c. 19, s. 35 (1).

Hearing  
R.S.O. 1980,  
c. 141

(3) The provisions of section 123 of the *Environmental Protection Act* apply with necessary modifications to a hearing by the Environmental Appeal Board under this section. 1972, c. 1, s. 70 (50), *part*.

Parties to  
hearing

(4) The applicant, person or municipality requiring the hearing, the Director referred to in subsection (2) and any other persons specified by the Environmental Appeal Board are parties to the hearing. 1974, c. 19, s. 35 (2).

Interpre-  
tation

**62.**—(1) In this section and in section 61, “emergency order” means an order, direction, report or notice issued, made or given under this Act in an emergency by reason of,

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or the use thereof; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

Enforce-  
ment of  
order

(2) No order, direction, report or notice, except an emergency order, shall be enforced until final disposition of an appeal, if any, or until the time for taking an appeal against the order has passed.

Compliance

(3) A person or municipality to whom an emergency order is issued, made or given shall comply with the emergency order forthwith after service of the order or a written copy thereof.

When  
emergency  
order  
altered on  
appeal

(4) When an emergency order is appealed and is altered or rescinded on final appeal, the alteration or rescission of the order comes into force on the date the final decision on appeal is given. 1972, c. 1, s. 70 (50), *part*.



## CHAPTER 362

## Ontario Youth Employment Act

## 1. In this Act,

Interpre-  
tation

- (a) “eligible employee” means a person who is resident and eligible to work in Ontario and who at the time of the commencement of the youth employment program has attained the age of fifteen years but has not attained the age of twenty-five years;
- (b) “eligible employer” means a person who has been actively engaged in business or farming in Ontario for at least one year immediately prior to the commencement of the youth employment program but does not include a municipality or local board thereof, the Government of Canada or the government of any province or any agency, board or commission thereof, or any person prescribed not to be eligible as an employer;
- (c) “employee” means an employee within the meaning of the *Employment Standards Act*;
- R.S.O. 1980,  
c. 137
- (d) “employer” means an employer within the meaning of the *Employment Standards Act*;
- (e) “farming” includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur-farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock and the keeping of bees;
- (f) “local board” means a local board as defined in the *Municipal Affairs Act*;
- R.S.O. 1980,  
c. 303
- (g) “Minister” means the Minister of Intergovernmental Affairs or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;
- (h) “municipality” means a city, town, village, township or improvement district and includes a metropolitan, regional or district municipality;

(i) “prescribed” means prescribed by the regulations;

(j) “regulations” means the regulations made under this Act. 1977, c. 12, s. 1; O. Reg. 210/80.

**Purpose  
of Act**

**2.** The purpose of this Act is to provide for the establishment of a youth employment program that will encourage the farming and business communities in Ontario to achieve increased employment of youth in Ontario by creating new summer job opportunities and that will provide young people with work experience and skills that better equip them for full-time participation in the labour market. 1977, c. 12, s. 2.

**Minister  
may make  
grants**

**3.** The Minister may make grants in the prescribed amount to eligible employers who hire eligible employees in accordance with the terms and conditions of the youth employment program established under this Act. 1977, c. 12, s. 3.

**Effect of  
program**

**4.—(1)** The youth employment program established under this Act shall ensure,

- (a) that employment created under the program is in addition to that normally provided by an employer and that it does not result in the dismissal, lay-off or reduction in regular hours or period of work of any existing employees of an employer; and
- (b) that employment is not provided under the program to an employee where the employer is a related person.

**Interpre-  
tation**

- (2)** For the purposes of clause (1) (b), “related person” means,
- (i) any spouse, parent, son or daughter, brother or sister of the employee,
  - (ii) any relative of the employee or of his spouse, other than a relative referred to in subclause (i), who has the same home as the employee, or
  - (iii) any body corporate of which the employee and any of the persons referred to in subclause (i) or (ii) or the partner or employer of the employee, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding. 1977, c. 12, s. 4.

**Returns**

**5.—(1)** Every person who receives a grant of money under the youth employment program established under this Act

shall, at such times and in such manner as may be prescribed, make a return to the Minister in such form as the Minister requires.

(2) Every person who fails to make a return as and when required by subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$500. 1977, c. 12, s. 5. Offence

**6.** The Minister, or any person designated by him in writing, may at all reasonable times enter into any premises or place where any business is carried on or any property is kept, or any thing is done in connection with any business or any books or records are or should be kept pursuant to the provisions of this Act or the regulations to ensure that the provisions of this Act and the regulations are being complied with. 1977, c. 12, s. 6. Inspection

**7.—(1)** Upon an inspection under section 6, the person inspecting, Powers of  
inspector

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, providing that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or other thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection (1) and purporting to be certified by the inspector is admissible in evidence in any action, proceeding or prosecution as being of actual proof of the original. Copies

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000. Offence

(4) No person employed in the administration or enforcement of this Act shall disclose information obtained under Non-disclosure

section 6 or this section, except where the disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or proceeding. 1977, c. 12, s. 7.

**Offence**

**8.**—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in related circumstances under which it was made, is false or misleading in respect of any material fact or omits to state any material fact, the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

**Saving**

(2) No person is guilty of an offence under subsection (1) if he did not know that the statement was false or misleading, and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1977, c. 12, s. 8.

**Recovery  
of grant  
made on  
basis of  
false  
application**

**9.** Where any person obtains a grant or disbursement of funds under this Act or the regulations, on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or disbursement together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction. 1977, c. 12, s. 9.

**Regulations**

**10.**—(1) The Lieutenant Governor in Council may make regulations establishing, amending or revoking a youth employment program and fixing the time of commencement and duration of the program, and, without restricting the generality of the foregoing,

- (a) prescribing the amounts of grants that may be made under the program to employers;
- (b) prescribing the terms and conditions upon which grants under the program may be made;
- (c) prescribing the manner in which eligibility for grants shall be determined;
- (d) prescribing the manner and method by which grants under the program shall be made;
- (e) prescribing the books and records to be kept by employers relating to employees in respect of whom grants under the program may be made;



- (f) prescribing the information and returns to be filed by employers in connection with the program;
- (g) prescribing the rate of interest for the purposes of section 9;
- (h) defining any word or expression used in this Act or the regulations that has not already been expressly defined in this Act;
- (i) prescribing any matter that is required or permitted by this Act to be prescribed by regulation;
- (j) prescribing forms and providing for their use and requiring any information given in a form to be verified by statutory declaration.

(2) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 19th day of April, 1977. 1977, c. 12, s. 10.

Regulation  
may be  
retroactive

**11.** Notwithstanding the *Provincial Offences Act*, proceedings to enforce any provision of this Act or the regulations may be instituted within two years after the time the subject-matter of the proceedings arose. 1977, c. 12, s. 11.

Institution of  
proceedings  
R.S.O. 1980,  
c. 400





























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